

**AMENDED AGENDA
MCHENRY COUNTY BOARD
667 WARE ROAD – COUNTY BOARD ROOM
WOODSTOCK, ILLINOIS
TUESDAY, SEPTEMBER 20, 2011 – 7:00 P.M.**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. INVOCATION/PERSONAL REMARKS (Marc Munaretto)
4. INTRODUCTORY ROLL CALL
5. MINUTES OF PREVIOUS MEETINGS
6. CHAIRMAN'S REMARKS/REPORTS
7. SPECIAL RECOGNITION/REPORTS
 - 7.1 Certificate of Completion as an Emergency Management Agency for the Village of Fox River Grove
8. SPECIAL PRESENTATIONS
 - 8.1 FY 2012 Budget Development Update
9. ZONING BOARD OF APPEALS
 - 9.1 ZBA CONSENT AGENDA
 - A. Exb. #11-26: Dorr Township, Philip Hellyer, request reclass of B1V-B1V, RECOMMEND APPROVAL
 - B. Exb. #11-31: Riley Township, A R Land Co/Peter Baker & Son Co, request reclass of A1C-A1C (renewal), RECOMMEND APPROVAL
 - C. Exb. #11-33: Nunda Township, MMR Holdings, LLC, request reclass of I1-I1V, RECOMMEND APPROVAL
 - D. Exb. #10-29: Dunham Township, Edmonds Trust, request reclass of B1-B3C, NO RECOMMENDATION
 - E. Exb. #10-32: Dorr Township, Erich/Terry Utech, request reclass of A1-A1C, NO RECOMMENDATION
 - F. Exb. #10-37: Nunda Township, Clow Trust, request reclass of A1C-A1CV, NO RECOMMENDATION
 - 9.2 ZBA REGULAR AGENDA
 - 9.3 ZBA UNFINISHED BUSINESS
10. PLATS
11. PUBLIC COMMENT
12. NEW AND UNFINISHED BUSINESS
13. APPOINTMENTS
14. STANDING COMMITTEE CHAIRMAN UPDATES
15. **ROUTINE CONSENT AGENDA**
 - 15.1 RECEIPT OF STATUTORY REPORTS AND PLACED ON FILE
 - A. County Clerk
 - B. Emergency Management Agency
 - C. Public Defender
 - D. County Recorder
 - E. Sheriff's Report
 - F. Treasurer's Report
 - 15.2 APPROVE THE FOLLOWING RECOMMENDATIONS
 - A. BUILDING PROJECTS
 - B. FINANCE AND AUDIT

- (1) Resolution to Approve Appointment of Members to an Expanded Board of Review for Assessment Year 2011
- (2) Resolution Authorizing Monthly Transactions for the Delinquent Tax Program
- (3) Resolution Approval to Enter Into a Contract with Mullins & Lonergan Associates for the Preparation of an Analysis of Impediments to Fair Housing Choice
- C. HUMAN RESOURCES
- D. LAW & JUSTICE
- E. LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS
- F. LIQUOR & LICENSE
- G. MANAGEMENT SERVICES
- H. NATURAL AND ENVIRONMENTAL RESOURCES
- I. PLANNING AND DEVELOPMENT
 - (1) Resolution Authorizing a Contract for Brownfields Assessment Services with URS Corporation
- J. PUBLIC HEALTH AND HUMAN SERVICES
- K. TRANSPORTATION
 - (1) Resolution Appropriating Supplemental Funds for Annual Striping Paint Materials
 - (2) Resolution Approving an Engineering Services Agreement for Pavement Condition Survey Services and Appropriating Funds
 - (3) Resolution Amending an Intergovernmental Agreement Amendment between McHenry County and PACE Suburban Bus to Modify Registration Procedures for Coordinated Transportation Services
 - (4) Resolution Authorizing the Transfer of Surface Transportation Program (STP) Funds for Partial Reimbursement of the County Engineer's Annual Salary
 - (5) Resolution Approving an Intergovernmental Agreement with the State of Illinois for the Graf Road Township Bridge Project and Appropriating Funds
- 16. ORDINANCES
 - 16.1 For Review
 - 16.2 For Action
- 17. ADMINISTRATOR'S REPORT
- 18. MEMBERS' COMMENTS
- 19. EXECUTIVE SESSION
- 20. OTHER BUSINESS, AS NEEDED
- 21. ADJOURNMENT

****All emergency appropriations require a two-thirds vote (16) of the Members of the County Board**

MCHENRY COUNTY BOARD
MINUTES OF THE REGULAR SESSION MEETING
SEPTEMBER 6, 2011

Chairman of the Board – Kenneth D. Koehler (District 2)

District 1
Robert Bless
Anna May Miller
Marc Munaretto
Robert Nowak

District 2
J.S. "Scott" Breeden
James Heisler
Kenneth Koehler
Donna Kurtz

District 3
Mary L Donner
Nick Provenzano
Kathleen Bergan Schmidt
Barbara Wheeler

District 4
Sue Draffkorn
John Hammerand
Pete Merkel
Sandra Fay Salgado

District 5
Tina Hill
John P Jung Jr.
Virginia Peschke
Paula Yensen

District 6
Randall Donley
Diane Evertsen
Mary McCann
Ersel C Schuster

The Honorable County Board of McHenry County, Illinois met in Regular Session on Tuesday, September 6, 2011.

Chairman Koehler called the meeting to order at 9:00 a.m. The Pledge of Allegiance to the Flag was led by County Clerk Katherine Schultz with Members of the Board, department heads and visitors participating. Ms. Miller gave the invocation/personal remarks.

ROLL CALL

The roll was called by County Clerk Katherine Schultz. The following members responded: Salgado, Schmidt, Schuster, Wheeler, Yensen, Breeden, Donley, Donner, Draffkorn, Evertsen, Hammerand, Heisler, Hill, Jung, Kurtz, McCann, Merkel, Miller, Munaretto, Nowak, Peschke, Provenzano and Koehler. Absent: Bless. Parliamentarian Jamie Rein was present. Chairman Koehler declared a quorum present with twenty-three members responding. Mr. Bless arrived after the roll was called.

MINUTES

Minutes of County Board Regular Session meetings of August 2nd & 16th, 2011 and COW meeting of August 16, 2011
Mr. Heisler made a motion seconded by Ms. Yensen to approve County Board minutes of August 2nd & 16th, 2011 and COW meeting of August 16th, 2011

Chairman Koehler asked if there were any changes/corrections to the minutes, there were none.

Chairman Koehler asked for a voice vote, the ayes having it, he declared the motion to approve County Board minutes of August 2nd & 16th, 2011 and COW meeting August 16th, 2011 has passed.

CHAIRMAN'S REMARKS

Chairman Koehler said many of us remember what we were doing when the news of 9/11 occurred. It has been a hard time for our country in many ways over the last ten years. Remember how important the flag and our country is to us and how in just a few seconds we can have such a tragedy take place on our sovereign soil. Take the time this weekend on the 11th to remember those who lost their lives and all those service men and women that are out there defending our country on behalf of all of us.

SPECIAL RECOGNITION/REPORTS

7.1 *Proclamation to recognize Kevin Charles for public service with the McHenry County DOT and the United States Army Corps of Engineers*

Ms. Miller made a motion seconded by Ms. Peschke to approve the above-named Proclamation.

Chairman Koehler asked for a voice vote, the ayes having it, he declared the motion to approve has passed.

Chairman Koehler asked Mr. Korpalski of the DOT to come forward to accept the award on behalf of Mr. Charles. Mr. Korpalski thanked the board on behalf of Mr. Charles saying he does shy away from the limelight but he has many accomplishments and recommendations to be proud of and he will be sure to give this recognition to him.

7.2 Proclamation proclaiming Monday, September 26, 2011 as Family Day

Mr. Heisler made a motion seconded by Ms. Peschke to approve the above-named Proclamation.

Chairman Koehler asked for a voice vote, the ayes having it, he declared the motion to approve has passed.

Ms. Peschke said this happens to be the same day as her birthday so this is a great excuse to get her six children and sixteen grandchildren to come and eat dinner with her!

7.3 Traffic Safety Challenge Award – McHenry County Sheriff's Department

Under Sheriff Zinke said that on August 24th, 2011 the McHenry County Sheriff's office was recognized and awarded first place at the annual IL Traffic Safety Challenge Ceremony in Peoria IL. One of the highlights is the reduction in traffic crashes and fatal crashes since 2006. In 2006, 23 fatality accidents were reported on McHenry County unincorporated roads and since then they have been dramatically reduced, noting in 2010 there were 7. The ultimate goal is zero but they are very proud of this accomplishment and what the officers and men and women of the department have accomplished. Under Sheriff Zinke said this recognition goes to the many hard working men and women who serve the Sheriff's office 24/7, their overall service and dedication to the safety for those who travel the roads of McHenry County and keep the Sheriff's office operating effectively is the real accomplishment. He asked those employees present to stand and be recognized. Lastly he said everyone might have heard about things going on around the Marengo area the last few weeks. He is pleased to announce that as of Friday afternoon their detectives had those people in custody who were responsible for several burglaries in that area. Working jointly they were able to apprehend burglars who were responsible for crimes in Ogle County, Boone County, DeKalb County and Winnebago County and they were apprehended in Rock County WI thanks to their efforts. Under Sheriff Zinke said our detectives went to Rockford and assisted in executing a search warrant and they found stolen property that completely filled a truck and a half.

Chairman Koehler thanked the Sheriff's Department on behalf of the County Board for the work that they do in keeping the citizens of McHenry County safe.

SPECIAL PRESENTATIONS

8.1 Drug Court Program – Dan Wallis and Scott Block

Mr. Wallis said they will be kicking off this program within the next couple of months. Mr. Wallis said he has been in the criminal justice system for 22 years with 13 of them being involved with specialty courts. When he first started he was an opponent to the Drug Court, he thought it was soft on crime and it didn't make sense. Now, he is a proponent because it now makes sense and they work. Mr. Wallis said 80% of offenders abuse substances; nearly 50% of the jail and prison inmates are clinically addicted; and almost 60% of individuals arrested test positive for illicit drugs at the time of their arrest or they are under the influence; 60% - 80% of the drug abusers commit a new crime after they are released from prison and 95% of those return to drug abuse after they are released from prison. It wouldn't seem that prison is the answer. Mr. Wallis said 1/100 people in the United States are incarcerated and 1/32 are on probation, parole or incarcerated. In the State of IL it's at a cost of \$1.2 billion dollars. He said the US is the third most populated country in the world following China as #1 and India #2 but the US is #1 in residents who are incarcerated per 100,000; China is 111/100,000 people, England is 139, Canada is 100, Australia is 100, Japan is 75, the United States is 737, way above everyone else. The US has 4.5% of the population of the world and we have 25% of the incarceration population in the world. Mr. Wallis said the Drug Court is a nontraditional approach to handling this problem and it's based on research and evidence. He said one of the caveats to this program is if you are a criminal offender who is addicted to drugs or alcohol you have to be in this program within 60 days of your first appearance with counsel. This means the offender has plead guilty and has been sentenced and if you're not you don't get in and this is because the evidence says if you can't get the offender at the time of the incident your outcome is diminished, Mr. Wallis would like to see the time frame down to 30 days. He said this program isn't for everybody and it's not an easy program. The drug program will bring together intensive treatment with intensive probation with intensive judicial oversight. The ideal participant for this program is the person that no one wants to deal with; it's easier to lock them up; it's the person who keeps taking resources and there is no return; it's the person that has been to prison or is in line to end up there. The Drug Court will have people who started using drugs at less than 14 years old or have been a criminal since the age of 16 or earlier, prior treatment probation failures, anti-social, history of crime in the family or history of addiction. Persons not ideal for the program are casual users or first time offenders and people who don't think they have a problem with drugs or alcohol. Mr. Wallis said Drug Courts are smart on crime and they work.

Scott Block, Special Courts Coordinator came forward. He said the Drug Court will be using drug counselors, intensive probation counselors, nurses, treatment providers as well as the usual people involved with the courts. What they seek to do is develop a program and work with individuals from a person centered approach where they get the personal treatment and the understanding of dealing with the issues that come as a result of the substance abuse. They will focus on treatment, accountability and community and judicial supervision. Mr. Block said people may ask why a Drug Court; when done correctly this type of program can reduce recidivism 30% - 40% and actually reduce the entire crime rate by up to 50%. He said we need to treat the disease not the symptoms of the disease which is the crime. Mr. Block said in 1999 the McHenry County Drug Taskforce was developed and at that time it was determined that the program was not needed but in 2009 McHenry County's Drug Court Taskforce reconvened and started to look at developing a program. In January of 2010 HB 3795 was signed into law which states that all judicial circuits must and shall have a Drug Court program. As of now, our Drug Court will be operational on December 1, 2011 and they hope to start a little early. He reiterated Mr. Wallis's remarks about the people they will have in the Drug Court program, namely felony offenders only and there will be 50 – 60 participants at a time in the program. Mr. Block said this being a post sentence program after pleading guilty, if the participant does not comply and fails the 12- 18 month program they move straight to sentencing. All participants must voluntarily come into the program and will know this up front. Mr. Block went on to say there are three phases: the first phase focuses on treatment; after that they will look at community integration such as volunteer work and employment trying to get them back into the positive parts of our community; and then finally the third phase will deal with continuing care, staying engaged in self-help groups, treatment process and continue moving forward with their lives. Mr. Block said they will look at helping veterans as well as getting referrals from family members, friends, police officers, public defenders and so on. The treatment providers in the program will include agencies that use evidence based practices such as the Mental Health Board, Family Services and Centegra. They will use intensive outpatient programs, partial hospitalization programs, dual diagnosis programs and whatever it takes for the individual to get their treatment needs met. Funding for the program will come from a five dollar fee that has been collected since May of 2010 from all guilty pleas filed and community supervision cases, as well as funds from the Mental Health Board to work with their Drug Court evaluator and counselor and Court Services and Court Administration are supplying some personnel. Mr. Block said they thank the County Board for supporting this program.

Chairman Koehler asked if there were any questions. Ms. Salgado asked if someone who graduated from the Drug Court be would be eligible for the Mental Health Court in the future or do they graduate from one or start the other? Mr. Block said there are many individuals they expect will have dual diagnosis, meaning both addiction and mental health needs, and fortunately Centegra and Family Service have programs that meet those clinical needs. The difference will be that the Drug Court is a post plea program and the Mental Health Court is a pre-plea program. By statutory language, if an individual is in a Drug Court one time that's it, they get one shot at that. If you are in a Mental Health Court you have to wait another three years before you can reapply. Instead of trying to flip flop people amongst the programs they will try to meet their clinical needs throughout the treatment providers and then base the community supervision needs through Court Services and the judicial monitoring. Ms. Salgado asked how many people they will start the program with in December. Mr. Block said they have a few already and expect spots to fill up quickly.

Ms. Peschke commented that she was involved with the Drug Court Taskforce ten years ago and they took a trip to Lafayette LA and through their program in two years they had diverted 165 people from prison. Many of those people thanked the people involved in the program and have gone on to live productive and happy lives.

Ms. Kurtz said she would like Mr. Block and Mr. Wallis to come back before the board after the Drug Court has been running for a year and show the board how this new approach is paying off. This would help support and grow the program. Mr. Block said that can and will be done as one of the key components that go into developing a Drug Court is continuous program evaluation and measurement of outcome. They will have an Integrated Management Information System set up where they will be able to record and give their outcomes at community presentations.

Ms. Schuster asked about incarceration not being the answer because they continue to get the drugs. She hoped that our jails were not allowing this to happen. Mr. Zinke responded that is happening in the state and federal prisons **not** in the McHenry County Jail.

Chairman Koehler and board members commended Mr. Wallis and Mr. Block for their presentation here today and wished them the best of luck as this Drug Court program gets up and running.

8.2 County Artwork – Tina Hill

Ms. Hill introduced artist Kurt Campbell who talked about the farmscape paintings being presented here today and how he got his inspiration for the paintings. Ms. Schuster thanked Mr. Campbell for depicting what McHenry County is about.

PLATS

None

PUBLIC COMMENT

Chairman Koehler explained the rules of Public Comment. The following person(s) spoke:

Mary McNamara of Palatine	for	Petition #10-37 CUP (food pantry)
Jodie Clow of McHenry	for	Petition #10-37 CUP (food pantry)
Jeff Clow of McHenry	for	Petition #10-37 CUP (food pantry)
Sandy Alberda or Lake Villa	for	Petition #10-37 CUP (food pantry)
Rev. Kent Lundstrum of Grayslake	for	Petition #10-37 CUP (food pantry)
Elizabeth Dobbartz of McHenry	for	Petition #10-37 CUP (food pantry)
Stanley Cotton of Woodstock	for	Petition #10-37 CUP (food pantry)
Happi Berger of Fox River Grove	for	Petition #10-37 CUP (food pantry)
Jim Kennedy of Lake in the Hills	regarding	Valley Hi Operating Board budget
Richard Liverette of McHenry	for	Petition #10-37 CUP (food pantry)

Noting no others wishing to speak, Chairman Koehler closed Public Comment.

NEW AND UNFINISHED BUSINESS

None

APPOINTMENTS

Ms. Schuster made a motion seconded by Ms. Peschke to approve the following Appointments:

McHenry County Public Building Commission
Steven L. Finzel term to expire 09/01/2016

Chairman Koehler asked for a roll call vote. The following members responded aye: Salgado, Schmidt, Schuster, Wheeler, Bless, Breeden, Donley, Donner, Draffkorn, Evertsen, Hammerand, Hill, Jung, McCann, Merkel, Miller, Munaretto, Peschke, Provenzano and Koehler. Absent: Yensen, Heisler, Kurtz and Nowak. The vote being twenty (20) ayes noting four (4) absent, the Chairman declared the above-named Appointment has passed.

STANDING COMMITTEE CHAIRMAN UPDATES

Mr. Hammerand said looking over the report that the Sheriff's office gave them, he noticed that the DUI arrests for 2008 were 467, for 2009 were 410 and for 2010 were 177. He complimented the Sheriff's office on their enforcement and also commented that the Liquor and License Committee during that period of time was very stringent in enforcing regulations and when they were brought forth citations they dealt with them fairly but strongly. Mr. Hammerand said continued enforcement of our regulations on Liquor & License is very important and that we continue to run stings with the Sheriff's office. He congratulated the past Liquor Commission for their stringent enforcement of the law.

Ms. Hill said they are finishing up the technical memorandum from Camiros on the zoning ordinance. There will be another meeting on October 6th to continue working on this and she encouraged all board members to attend. She said she will be scheduling special P&D meetings to have some education on the zoning ordinance and will let everyone know when the dates have been set.

ROUTINE CONSENT AGENDA

Chairman Koehler asked if anyone wished to remove an item from the Consent Agenda, there were none.

Ms. Donner made a motion seconded by Mr. Jung to approve the Routine Consent Agenda as presented.

Noting no discussion, the Chairman asked for a roll call vote. The following members responded aye: Salgado, Schmidt, Schuster, Wheeler, Yensen, Bless, Breeden, Donley, Donner, Draffkorn, Evertsen, Hammerand, Heisler, Hill, Jung, Kurtz, McCann, Merkel, Miller, Munaretto, Peschke and Koehler. Absent: Nowak and Provenzano. The vote being twenty-two (22) ayes noting two (2) absent, the Chairman declared the motion to approve the Routine Consent Agenda has passed.

ORDINANCES

None

ADMINISTRATOR'S REPORT

Mr. Austin said as of last Friday they've finished all of their budget reviews with departments and committees. He and Mr. Sarbaugh would like to plan on addressing the full board on the evening of September 20th to give an idea on where we are on the development of the fiscal year 2012 budget.

Tomorrow there is a planned meeting of the chairman of each of the standing committees to talk about elected official compensation beyond 2012. He has received a spread sheet from the Human Resources Committee with comparables from neighboring counties so he will be sending that out to everyone this afternoon. The meeting will take place here in the Admin Building at 10 a.m. or immediately following the Transportation Committee meeting.

Ms. Kurtz asked if any of the other counties pay on a per meeting basis as opposed to a salary. Mr. Austin said there are 102 counties and he suspects most of them pay on a per diem basis. The salary route is used more in the larger counties. She asked if that would be noted in the spread sheet, Mr. Austin said no as the spread sheet looks at the larger counties.

Mr. Austin said Saturday will be the Valley Hi family picnic. He encouraged board members to attend to meet staff and mingle with residents and their families. There will be lunch and a petting zoo. Chairman Koehler commented that the food at Valley Hi is very good and he also encouraged people to attend.

Ms. Yensen commended Mr. Austin for participating in the run and supporting the Sunset Festival.

Ms. Salgado asked Mr. Austin to review the schedule for the budget namely when they will see the supplemental requests. Mr. Austin said they don't have that date yet. The entire budget needs to be put on 30-day review at the evening meeting in October. He has received a copy of the supplemental requests and has begun the process of going through them and seeing what the must haves are and what are the unavoidable. He thinks they will be ready to have a review of the supplementals towards the end of the month. Commonly they have presented these to the committee chairs and then they allow a couple of weeks to get a reaction and send them out to the full board at that point so you can see what is being recommended.

MEMBERS' COMMENTS

Ms. Yensen said there is going to be a ribbon cutting ceremony for a new fire station near Square Barn Road and Algonquin Road at 8:30 a.m. Sunday morning and she encouraged board members to attend. She thanked MCDOT and Transportation Committee members for providing the help needed to get this fire station built as there had to be some special signalization and right of ways for this project.

Secondly, Ms. Yensen said she read an article speaking about Sunshine Laws and things like that and said she has a concern about the coordination between MCCOG to the lobbyists that we hire and legislative priorities so that we understand what those priorities are. Ms. Yensen said she has never received any update about what the legislative priorities are.

Mr. Austin said this is on the agenda for the Legislative Committee meeting on Thursday and he's asked Adam to review the Metro Counties document and have some discussion with the Legislative Committee. He also talked briefly with Kevin Craver about this as well. Mr. Austin said there was not an active review of Metro County's legislation and he doesn't know that there was a number of FOIA related legislative pieces. He said Metro Counties operates by having a very clear set of legislative tenants i.e. is it going to protect county authority, county cost, county revenue stream; they have to operate that way and this county board has adopted a very similar set of legislative tenants. He's not sure yet about what legislation was referenced by that article on the 23rd but he will have that for the committee on Thursday. How those legislative pieces measured against the Metro Counties tenants answers the question as to why Metro Counties stood opposed to those. Mr. Austin said these were not legislative priorities of Metro Counties as they typically make two to four priorities in a spring session. Mr. Austin said there are hundreds of Bills that they take a stance of neutral, opposed or against and we've been sharing some of those with the Legislative Committee. Mr. Austin said apparently a local reporter got a copy of that and pieced it together, but there was no active work, no priority of Metro Counties.

Ms. Peschke said this morning we had a number of people speak on behalf of the pantry, a specific Petition. It disturbs her that should someone have an objection to that Petition they now have no right to speak before this body. She urged the board to adopt an agenda that allows people to speak at both meetings before zoning so that we have some equity with respect to our citizens.

Ms. Donner said yesterday was the kickoff for programs regarding 9/11. She asked people to watch what is being presented on the 9/11 attack and don't forget, it's still here.

Ms. McCann thanked Under Sheriff Zinke for coming to speak to the seniors at McDonald's on Friday morning. Everyone enjoyed his presentation and learned from it. Secondly, she said on the agenda today we passed a resolution for professional services for MCDOT again with a long term contractor. While we haven't talked about what the local government can do for the economy she suggested that we as a board support efforts to spread funding around to different professional services so that they keep up their skills and we keep those kinds of businesses around here in McHenry County.

Ms. Schuster thanked Ms. Donner and echoed her comments. Regarding the point Ms. Yensen was making in reference to the information, she said we need to be kept in the loop better with the various organizations we are involved in and the appointments that we make. She feels it is disconcerting to after the fact find out that we've basically condoned or accepted some position on either legislation or action that some group has taken that actually comes back on us. Ms. Schuster said when the Management Services Committee was working on the board rules they touched lightly on the subject of identifying these various committees and trying to come together with some format under which they, the individuals which we appoint, can be more interactive with us on these various committees and commissions so that we have a better understanding of what they are dealing with before they take positions. She said if there are any comments or input please contact her.

Mr. Hammerand said he attended the meeting that Mr. Ross hosted with township assessors and found it very informative. He believes the point was made that we think the assessed valuation should be reflected in the true market value of the properties in McHenry County.

Chairman Koehler said he will be out of town as his son is getting married this weekend. As for the Superintendent of Schools issue nothing really has happened. He and Mr. Austin have a meeting scheduled next week with the Regional Superintendent of Lake County. She has been very helpful in getting McHenry County through the opening of schools this season. He hopes that after the meeting they might come up with some idea of what is going to happen. Chairman Koehler said he feels the Governor has failed the children of IL and it is one thing to be concerned about a budget but it's another thing to have a plan in place to implement before you take and jeopardize the children of IL. The Chairman said nobody has called the Governor on it and it's too bad as there is no good solution to this. This is all legislatively driven through the school code and the Governor has violated the school code.

EXECUTIVE SESSION

None

ADJOURNMENT

Ms. Donner made a motion seconded by Ms. Yensen to adjourn at 10:45 a.m. Chairman Koehler declared the motion passed on a unanimous voice vote.

Dated and approved at Woodstock, Illinois this 20th day of September, A.D., 2011.

Kenneth D Koehler, Chairman
McHenry County Board

ATTEST:

Katherine C. Schultz, County Clerk

HEARING OFFICER REPORT TO THE MCHENRY
COUNTY BOARD IN THE MATTER OF PETITION #11-26

1. Recommendation: Approve.
2. Petitioners: Philip Hellyer, owner of record.
3. Request: A Variation within the B-1V Neighborhood Business zoning district to permit a maximum set back of eighty five (85) feet from the right of way instead of the maximum fifty (50) feet allowed.
4. Location & size of property in question: The subject property consists of approximately 1.4 acres and is located on the north side of Route 14 approximately 500 feet east of the intersection of Route 14 and Lily Pond Road, in Dorr Township, McHenry County, Illinois. The property has not been assigned a common address.
5. Present at hearing:

Susan Connor, Hearing Officer
Philip Hellyer, owner of record
Kim Kolner, County Staff

6. Date, time and location of the hearing: August 10, 2011 at 9:00 a.m. McHenry County Government Center, Ware Road Administration Building, Woodstock, IL 60098.
7. Items of evidence: None
8. Summary of Testimony at the hearing:

The Hearing Officer opened the meeting and explained that the Petitioner was before the Board requesting the variation described above and that the burden was on the Petitioner to demonstrate compliance with the standards for a variation contained in the McHenry County Sign Ordinance.

The property owner explained that he had received from the County Board a variation, which he and his then- attorney believed would permit the billboard that was subsequently erected on the subject parcel. However, because of the curve of the road on which the sign fronts, the angle at which the sign was constructed and the fact that the Sign Ordinance regulates an “envelope” within which the entirety of the sign must be located (in addition to regulating the setback *per se*), a portion of the billboard is not, in fact, compliant with the setback requirement, so the Petitioner has returned to seek a subsequent variation to render the existing billboard legal and conforming.

Note that the other possible option for the Petitioner is to move the billboard closer to the road but he has received notice that his property will be the future subject of a condemnation action to widen that road. Upon such condemnation, the sign would again have to be moved without this requested variation.

9. Planning and Development Report- comments and conclusions:

Adjacent land use:

North: single family residential

South: vacant and agriculture

East: agricultural

West: vacant

Adjacent zoning: A-1 Agriculture in all directions.

The property is designated Residential on the 2030 McHenry County Land Use Plan Map. The petitioner has applied for a Natural Resources Inventory Report and it has been determined that a full report will not be necessary. For further information refer to NRI Number L05-109-3099. According to FIRM Map Panel Number 17111C 0200J, and USGS HA-256, the property in question does not contain floodplains but does contain both a flood of record area and wetlands (not in the area for which the variation is proposed).

10. Recommended findings of fact:

The Standards for Variations for signs, in Section 707.4 of the McHenry County Sign Ordinance, have been met and granting the variation is recommended. Proposed findings follow. These standards are not the same as for more general variations applicable to other zoning regulation. There are two such standards: Exceptional narrowness, shallowness, or shape of the premises on which a sign is to be located or exceptional topographic conditions or physical features uniquely affecting the premises on which a sign is to be located. The sign ordinance further provides that a request to vary the location, size or height of a sign because said signage would be more profitable or more valuable, shall not be considered a special or unique hardship as required by this section and the McHenry County Board shall grant a variation only if it finds that there are no other reasonable alternatives for a sign permitted by this ordinance if the variation is not granted.

- A. The first standard is that because of exceptional narrowness, shallowness or the shape of the property on which the sign is to be located, a variation is required. There is only one small area of the parcel in which a sign can be placed because of the width of the lot and its topography. Both for the earlier variation granted on this parcel and this pending Petition, the location for the sign was engineered to fit it in that part of the parcel to the maximum extent practical.

B. The second standard is that exceptional topographical conditions or physical features uniquely affect the premises on which the sign is to be located. The conditions upon which the Petition for a variation are based is unique to the property for which the variation is sought and are not applicable, generally, to other property within the same zoning district. The uniqueness of the Petitioner's property is due to its relatively narrow width, the curve of the adjacent road in front of the parcel and the environmental constraints posed by the flood of record and wetland areas.

Respectfully submitted,

Susan Marie Connor

Susan Marie Connor

IN THE MATTER OF THE APPLICATION)
 OF *Philip Hellyer* FOR A)
 VARIATION OF THE Sign ORDINANCE) **VARIATION ORDINANCE**
 OF McHENRY COUNTY, ILLINOIS) # 11- 26

WHEREAS, your petitioner *Philip Hellyer* has filed a petition with the McHenry County Hearing Officer, requesting a **variation** of the Sign Ordinance of McHenry County , as it relates to the real property more fully described as:

That Part of the Northeast ¼ Of the southwest ¼ Of Section 23 Township 44 North Range 7 East Of The Third Principal Meridian, Described As Follows;

Beginning on the North and South Quarter Section Line at A Point 520.52 Feet South From The Center of Said Section 23; Thence West On A Line Parallel With the East and West Quarter Section Line for A Distance of 125' Feet To a Point; Thence Southwesterly On A Line Forming An Angle Of 80 Degrees 39 Minutes To The Left With A Prolongation Of The Last Described Line For A distance Of 328.65 Feet To An Intersection With The Northeasterly Line Of Highway U.S. Number 14, Thence Southeasterly Along The Northeasterly Line Of said Highway Being On A Tangential Curve to the Right (Radius Of 1462.7 Feet) For A Distance Of 253.29 Feet to An Intersection With Said North and South Quarter Section Line; Thence North On Said Quarter Section Line 497.68 Feet to The Point Of Beginning ,In McHenry County ,Illinois

P.I.N. # 13-23-300-006

More commonly known as Rt 14, **vacant, McHenry County , Illinois /Dorr Township**

WHEREAS, the Petition requests no reclassification of the subject property from its present classification which is **B1V Neighborhood Business District ,but a variation be granted to allow a maximum setback of eighty five (85) feet from the right-of-way instead of the maximum fifty (50) feet allowed.**

WHEREAS, the subject property consists of approximately **1.4 acres** in which no reclassification is contemplated.

WHEREAS, a hearing on said petition was held before the Hearing Officer of McHenry County in the manner and the form as prescribed by the Ordinance and Statute; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of exhibits advanced thereat, the Hearing Officer of McHenry County **did recommend the granting of a variation to permit a maximum setback of eighty five (85) feet, from the right-of-way instead of the maximum fifty (50) feet allowed.**

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Hearing Officer of McHenry County.

WHEREAS, the McHenry County Board has determined that the standards for a variation as set forth in the McHenry County Sign Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE BE IT ORDAINED, that the Sign Ordinance and the Zoning Maps of McHenry County and such Ordinances and such maps as amended, be and the same are hereby amended to allow a **variation to permit a maximum setback of eighty five(85) feet, from the right of way instead of the maximum fifty (50) feet allowed.**

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED this _____ day of _____, 20_____.

Chairperson, McHenry County Board
McHenry County, Illinois

ATTEST:

County Clerk

NUMBER VOTING AYE: _____

NUMBER VOTING NAY: _____

NUMBER ABSTAINING: _____

NUMBER ABSENT: _____

**PLAN REVIEW REPORT
VARIATION REQUEST PETITION #11-26**

Petitioner: Philip Hellyer, owner of record.

Request: A *Variation* within the **B-1V Neighborhood Business** district to permit a maximum setback of eighty-five (85) feet from the right-of-way instead of the maximum fifty (50) feet allowed.

Location: The subject property consists of 1.4 acres and is located on the north side of Route 14 approximately 500 feet east of the intersection of Route 14 and Lily Pond Road, Woodstock, Illinois in Dorr Township
No Common Address
PIN: 13-23-300-006

Existing Land Use: The property is designated **TRANSPORTATION, COMMUNICATION, UTILITIES** on the Existing Land Use map.

Adjacent Land Use: North: *Single-Family Residential*
South: *Vacant & Agriculture*
East: *Agriculture*
West: *Vacant*

Current Zoning: The property is currently zoned **B-1V NEIGHBORHOOD BUSINESS**. There is a Variation on the PIQ to allow a setback of 75 feet from the boundary line of the agricultural zoning district instead of the required 100 foot setback.

Adjacent Zoning: North: *A-1 Agriculture District*
South: *A-1 Agriculture District*
East: *A-1 Agriculture District*
West: *A-1 Agriculture District*

McHenry County 2030 Comprehensive Plan
The property is designated as **RESIDENTIAL** on the *2030 McHenry County Land Use Plan Map*.

Municipal Plans within 1.5 miles:
Woodstock: *No Land Use Designation*
Crystal Lake: *Estate Residential*
Bull Valley: *3-4.99 acres*

Physical Features: The petitioner applied for a Natural Resources Inventory Report. It was determined that a full report was not necessary. For further information refer to NRI Letter L05-109-3099. According to the Plat of Survey, the PIQ contains a sign, telecommunications monopole tower, and equipment sheds. According to F.I.R.M. Map, Panel No. 17111C 0200J the PIQ does not contain floodplains. However, According to the U.S.G.S. HA-256 (Woodstock) the PIQ does contain a flood-of-record and wetlands.

Comments/Conclusion: The petitioner should be aware that under Article VII of the *McHenry County Sign Ordinance*, several standards are cited, all of which must be met in order for a variance to be granted.

The Illinois Department of Natural Resources (IDNR) indicated that impact on protected state resources would be unlikely and the consultation has been terminated.

Aerial Photo

Petition # 11-26



Photo: 2009

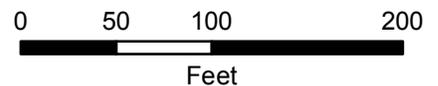
Any parcel lines depicted on the aerial photograph are for general reference only. Please refer to the plat of survey for the location of lot or parcel lines.

Elevation (feet above sea level)

- 10-foot contours
- 2-foot contours

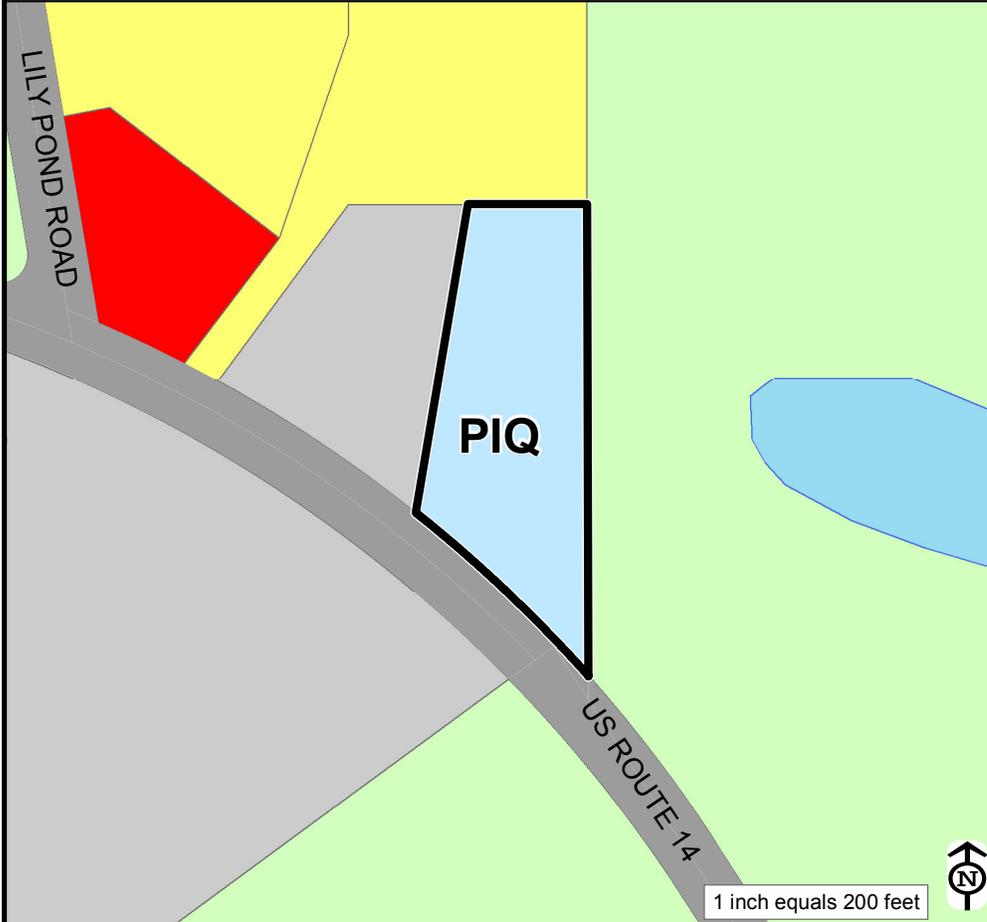
ADID Wetland Map 2005

- High Functional Value Wetland (hfw)
- High Quality Wetland (hqw)
- Wetland (w)
- Farmed Wetland (fw)



Prepared by the McHenry County
Department of Planning and Development

Current Land Use Map



Current Land Use of the PIQ

Transportation, Communication, Utilities

Land Use Adjacent to the PIQ

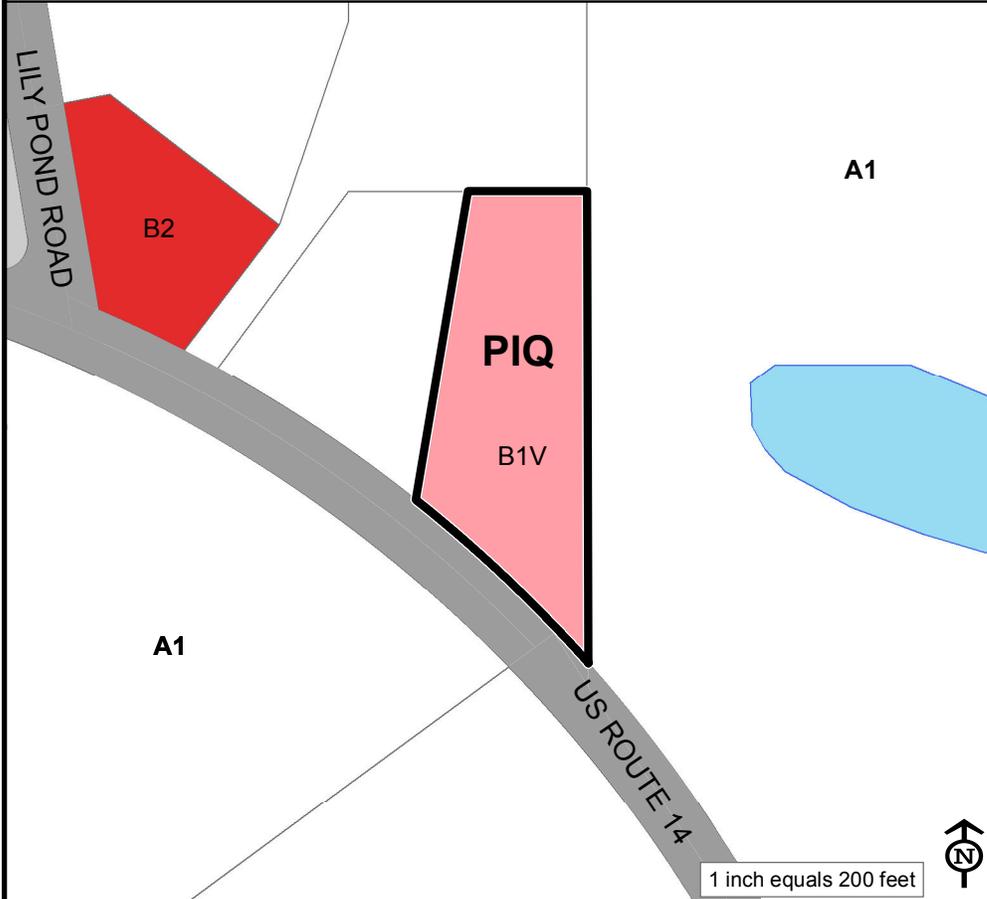
North: *Single-Family Residential*
 South: *Vacant & Agriculture*
 East: *Agriculture*
 West: *Vacant*

- Agriculture
- MCCD Agriculture
- Single-Family Residential
- Multi-Family Residential
- Open Space
- Golf Course
- Commercial
- Office
- Industrial
- Mixed Use
- Earth Extraction
- Vacant
- Government / Institutional
- Transportation, Communication, Utilities

1 inch equals 200 feet



Zoning Map



Current Zoning of the PIQ

B-1V Neighborhood Business

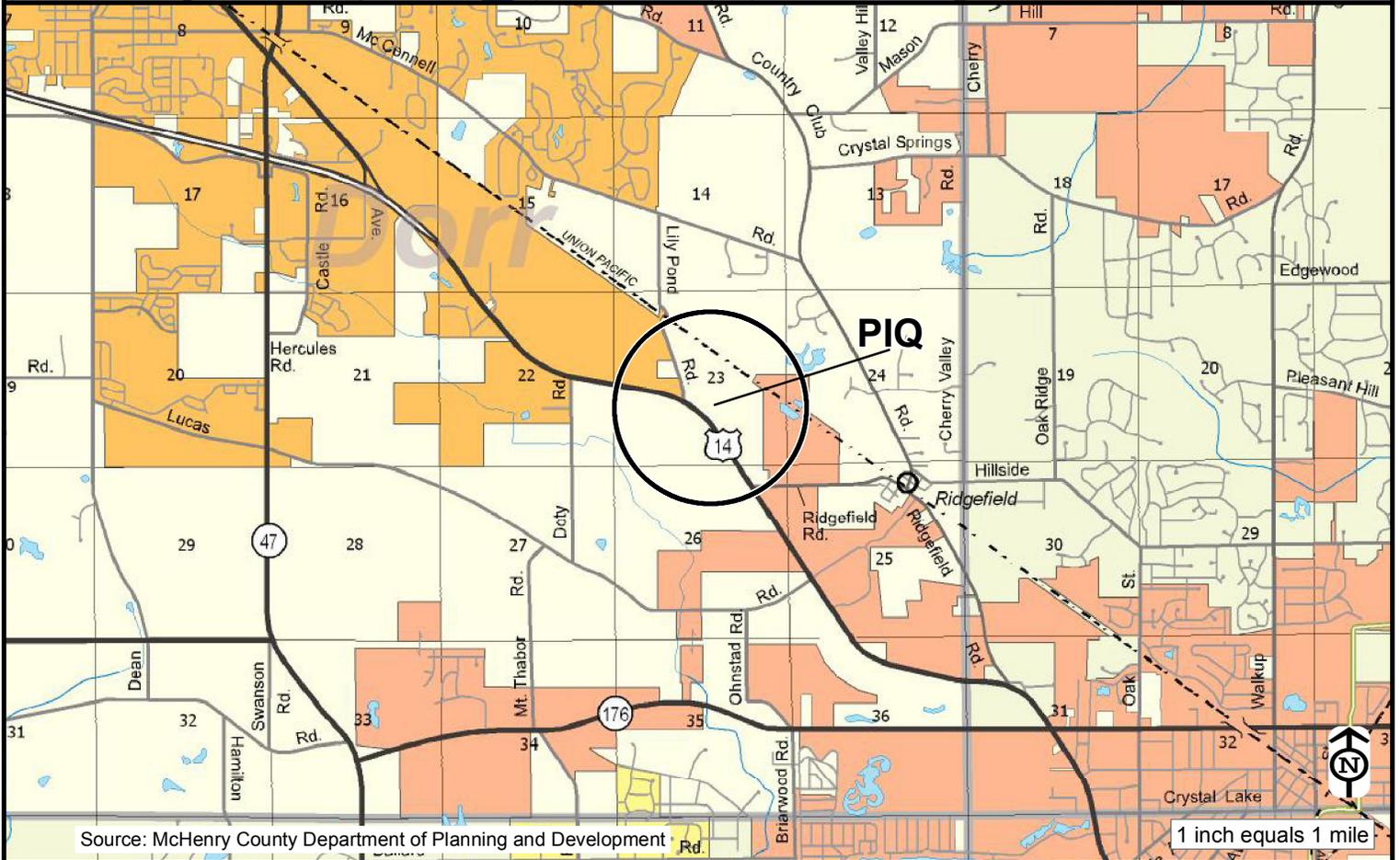
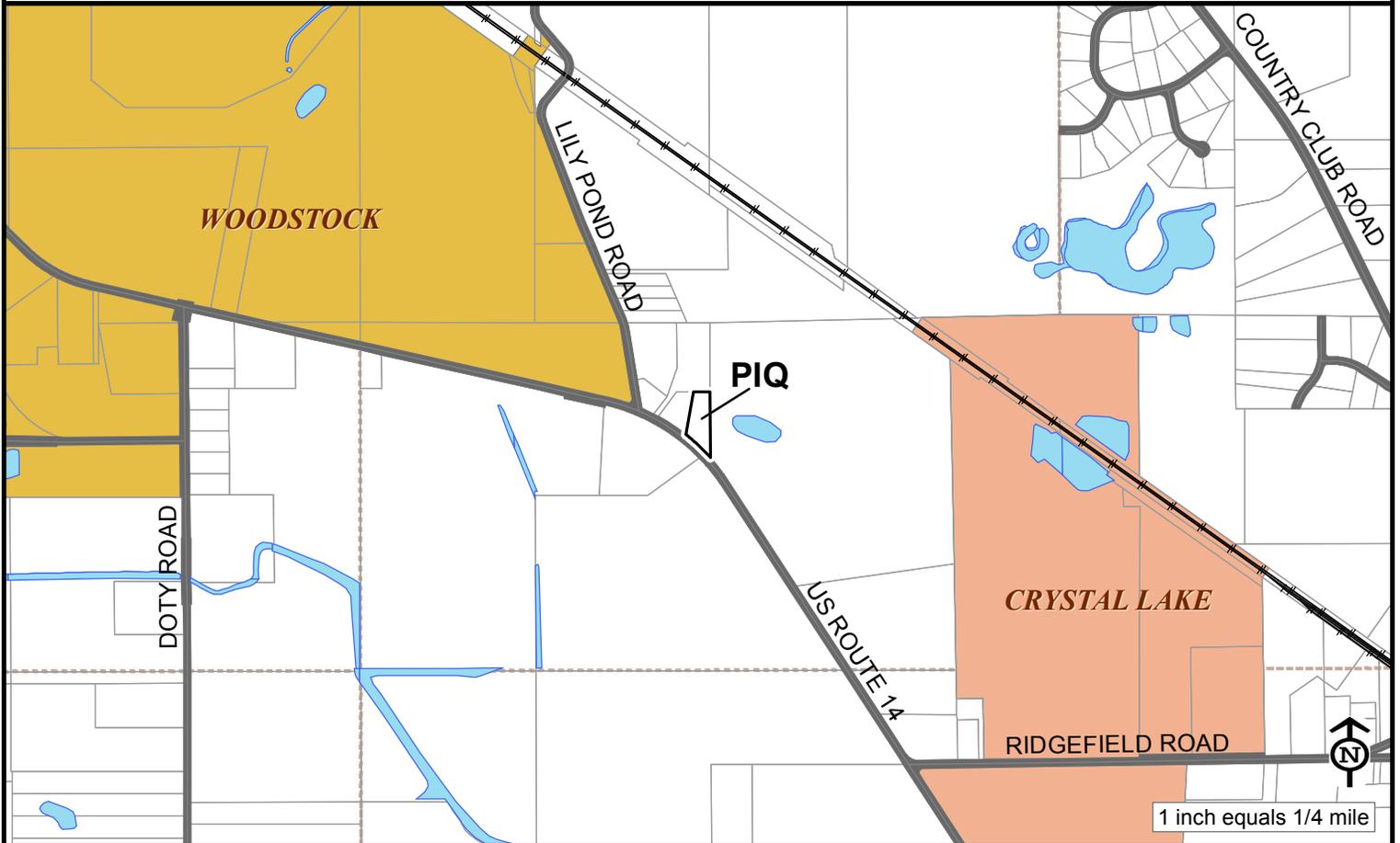
Zoning Adjacent to the PIQ

Northwest: **A-1 Agriculture District**
 Northeast: **A-1 Agriculture District**
 Southwest: **A-1 Agriculture District**
 Southeast: **A-1 Agriculture District**

- A-1 Agriculture
- A-2 Agriculture
- E-5 Estate
- E-3 Estate
- E-2 Estate
- E-1 Estate
- R-1 Single-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- B-1 Neighborhood Business
- B-2 Liquor Business
- B-3 General Business
- O Office / Research
- I-1 Light Industry
- I-2 Heavy Industry
- PD Planned Development
- C Conditional Use
- V Variation
- Incorporated

1 inch equals 200 feet





Source: McHenry County Department of Planning and Development

SITE PLAN

FOUND STONE MONUMENT

5.89°57'21"E. 2621.29' (2621.64')

FOUND 1/2" IRON ROD IN CONCRETE MONUMENT

NORTH - SOUTH QUARTER SECTION LINE AS MONUMENTED

S.00°35'13"E. 520.04' (520.52')

S.89°57'21"E. 125.07' (125')

POINT OF COMMENCEMENT OF LEASE SITE, ACCESS & UTILITY EASEMENTS

N.09°21'20"E. 327.92'

S.00°35'13"E. 337.42'

S.00°35'13"E. 497.45' (497.68')

CENTERLINE OF LILY POND ROAD

ARC DISTANCE = 43.1' TO THE CENTERLINE OF LILY POND ROAD

FOUND 1" IRON PIPE 0.39' NORTHERLY & ON LINE

Asphalt Pad
Concrete Base
Billboard
946.33' Bottom of Billboard
959.49' Top of Billboard

Asphalt
Gravel Shoulder

CH. BRG. N.46°31'28"W. CH. = 252.88'
R=1462.70' ARC = 253.15' (253.29')

Route 14

Culvert Pipe

RECEIVED

APR 13 2011

WES
ED A

ZONING BOARD OF APPEALS REPORT

TO THE MCHENRY COUNTY BOARD

PETITION #: 11-31

1. **Petitioner:** A R Land Co., Owner of Record, and Peter Baker & Son Co., Lessee
2. **Request:** Renewal of the existing Conditional Use Permit (Ordinance #01-72) for premises under the terms of Section 502 of the McHenry County Zoning Ordinance to allow the production, storage and distribution of asphalt products and stockpiling, crushing, screening, and processing of raw materials, including recycled products, to manufacture such products.
3. **Location and size of property in question:** The subject property consists of approximately 30 acres and is located on the west side of Route 23 approximately $\frac{3}{4}$ of a mile north of the intersection of Grange Road and Route 23 in Riley Township, McHenry County, Illinois, with a common address of 8407 Route 23, Marengo, Illinois, 60152.
4. **Date and time of hearing:** August 3, 2011 @ 1:30 PM
Date and time of voting meeting: August 23, 2011 @ 9:30 AM
5. **Location of hearing and voting meeting:** McHenry County Administration Building, 667 Ware Road, Woodstock, Illinois 60098, Conference Room B
6. **Present at hearing:**
 - A. ZBA Members: Chairman Richard Kelly Jr. (did not vote), Vicki Gartner, Edward Haerter, Elizabeth Scherer, Charles Eldredge, Patricia Kennedy, John Rosene
 - B. Witnesses: Robert Baker, Donald Palmer, Randi Wille
 - C. Attorney: Thomas C. Zanck
 - D. Public: Kim Kolner – County Staff, Everett Burton, Helen Oerkfitz, Annick Maenhout

Items of evidence: Site plan, regional USGS exhibit of the area, Plat of Survey

7. SUMMARY OF TESTIMONY AT HEARING:

Chairman Kelly opened the hearing and stated that the Petitioners were before the Board requesting renewal of the existing Conditional Use Permit (Ordinance #01-72) for premises under the terms of Section 502 of the McHenry County Zoning Ordinance to allow the production, storage and distribution of asphalt products and stockpiling, crushing, screening, and processing of raw materials, including recycled products, to manufacture such products.

Tom Zanck, attorney for the Petitioners, stated that the Petitioners' company has been in business since approximately 1915 and have been at the 30-acre subject property for ten years.

Robert Baker was called as the first witness. Mr. Baker is the vice president of Peter Baker & Son and co-owner of A R Land Company. Peter Baker & Son produces asphalt and paves hot mix. A site plan was submitted as Exhibit No. 1.

Mr. Baker stated that there have been no spills on site that contaminated the soil in the past 10 years. There is a spill prevention plan in place and there is an existing lifetime Environmental Protection Agency permit to operate on site. Mr. Baker also noted that the State Fire Marshall comes out to the subject property approximately once a year to inspect the facility. Fuel tanks are located east of the plant within a concrete containment area that can hold 110 percent of the product in the event there was leakage.

John Rosene asked if there is anything harmful in the materials that are brought back to the property that might potentially leach into the soil. Mr. Baker stated that it is just pavement off of the highway, so the only thing that could potentially be on it would be salt. However, he believes sand is used in the area, and if there was previously salt, it should be washed away by the time they receive the pavement at their site.

Charles Eldredge asked about the cleaning out of trucks on the property. Mr. Baker confirmed that a shovel is used to remove pieces of asphalt from the truck, but there are no solvents, detergents or other chemicals used to do so. He indicated that the only maintenance done on site is to one or two trucks and a loader, but no chemicals are used in the maintenance of that equipment.

Donald Palmer was called as the next witness. Mr. Palmer is a licensed professional geologist with HR Green in McHenry. He presented a regional USGS exhibit of the area, which was submitted as Exhibit No. 2. A Plat of Survey of the property in question was also submitted as Exhibit No. 3.

Mr. Palmer noted that the surrounding zoning to the north, east and south of the subject property is A-1 with Conditional Use Permits. He stated that there is an existing sand and gravel operation to the north of the property that he believes is currently in operation. To the east of the subject property is another sand and gravel operation on the east side of Route 23. Agricultural property is located to the south of and also to the west of the parcel in question.

Using Exhibit No.1, Mr. Palmer described the different components of the property on the site plan. There is a gated access roadway to the site that allows trucks to enter and exit from Illinois Route 23 and is paved up to the plant area. To the south of the paved area is stockpile areas. There are also stockpile areas to the west of the asphalt plant that contains more virgin raw materials. The asphalt facility that produces asphalt is located in the center of the property. The northeast corner of the property contains an earthen berm. There is another berm along the eastern portion of the property, south of the northern berm, as well as one along the southern edge of the property. All of these berms were constructed when operations began on the site 10 years ago.

Regarding surface water, Mr. Palmer explained that the water on the site drains from east to southwest. A stormwater detention basin is located at the southwest corner of the property.

Mr. Palmer addressed the Standards for Conditional Use, noting that his firm was involved with the site since the previous Conditional Use. He believes that the proposed use would be compatible with existing or planned future development in the area. Mr. Palmer explained that the asphalt plant provides a necessary resource for roadway construction and reconstruction in the County and surrounding areas.

Vicki Gartner asked about the function of the berms on the property. Mr. Palmer stated that they are not only used for screening purposes, but also as a sight and sound screen from surrounding properties.

Staff indicated that there had not been any complaints or violations within the past ten years of operation of the Conditional Use. They feel that the environmental sensitivity issues were addressed by the witnesses during testimony. Staff recommends approval of the requested Conditional Use renewal.

Randi Wille of Meyer Material Company, which operates to the south across the street, stated that they were in support of the Conditional Use request. Annick Aenhout, a neighbor to the north, also stated support of the Petition.

Chairman Kelly stated that the Endangered Species Consultation had been terminated, and the Swainson's Hawk was noted to be in the vicinity. The Soil and Water Conservation District report had been received, and aquifer information was discussed.

8. **Planning & Development Department Staff Report-Comments and Conclusions:**
The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

Conditional Use Request

The requested conditional use, being a pre-existing established use in the area, is not in conflict with the surrounding agricultural, earth extraction, and commercial uses. However, it is not consistent with the adjacent single-family residential uses. The requested conditional use will not affect the underlying zoning of *A-1 Agriculture*. The PIQ has a LE score of 23.06, therefore, would not be considered among the "most productive agricultural lands." The SARA map shows the PIQ has a high potential for aquifer contamination. INDR has indicated that there are several (nest) records of the State-listed endangered Swainson's Hawks in the vicinity of the PIQ. The requested conditional use is compatible with the Future Land Use map designation of OFFICE, RESEARCH, INDUSTRIAL.

BACKGROUND

The PIQ is approximately 30 acres (PART OF PIN 16-14-100-005). The site plan shows that there is a utility building, control house, silo and asphalt plant located on the PIQ. The prior conditional uses on the property for the production, storage, and distribution of asphalt products and stockpiling, crushing, screening and processing of raw materials is set to expires December 18, 2011.

STAFF ANALYSIS - CONDITIONAL USE REQUEST

The purpose of the Conditional Use is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

1) Current Land Use:

The requested conditional use, being a pre-existing established use in the area, is not in conflict with the surrounding agricultural, earth extraction, and commercial uses. The request conditional use is not consistent with the adjacent single-family residential uses. There are two earth extraction uses in the vicinity of the PIQ, one to the north and the other to the southeast of the PIQ.

2) Zoning:

The requested conditional use will not affect the current zoning, which is A-1C Agriculture district.

3) 2030 Comprehensive Plan text:

The conditional use area would not be considered among the “most productive agricultural lands” because of its LE score of 23.06. The PIQ is located within a Sensitive Aquifer Recharge Area. However, some of these areas are where asphalt processing activities have already occurred.

4) 2030 Comprehensive Plan Future Land Use map:

The requested conditional use is compatible with the map designation of OFFICE, RESEARCH, INDUSTRIAL.

5) Environmental Factors:

According to the SARA map, the PIQ has a high potential for aquifer contamination. The PIQ does contain floods-of-record. There are no wetlands or floodplains within the conditional use area. The McHenry County Soil and Water Conservation District Natural Resources Inventory report was received. Please refer to NRI 11-025-3676 for more information. The Illinois Department of Natural Resources (IDNR) indicated that there are several (nest) records of the State-listed endangered Swainson’s Hawks in the vicinity of the PIQ. IDNR recommendations measures are taken to insure the protection of a State endangered species.

NOTES

- All requirements of Article 5, Section 502.3 STANDARDS FOR CONDITIONAL USE must be met.

9. **Soil and Water Conservation District Report:** For additional information refer to NRI 11-025-3676.
10. **Illinois Department of Conservation:** The consultation has been completed.
11. **SUMMARY OF VOTING MEETING DISCUSSION:**

Chairman Kelly opened the voting meeting and stated that there were proposed conditions listed as follows:

1. The Conditional Use Permit shall be limited to ten (10) years from the date of approval by the McHenry County Board.
2. The site shall be in substantial compliance with plans prepared by HR Green, dated May 11, 2011, attached as Exhibit #1.
3. The hours of operation shall be from 5:00 a.m. to 6:00 p.m., Monday through Saturday during the months of March through December.
4. Containment structures must be constructed and maintained for all storage tanks on the Property in Question.
5. The owner/operator shall take adequate measures to insure that contaminated surface water runoff shall not enter ponds or other areas of open standing water.
6. To the extent lawfully permitted by the Illinois Department of Revenue, the point of sale of processed and/or distributed asphalt products shall be deemed to originate in the County of McHenry, Illinois.
7. There shall be no dumping of debris of any kind on the site. The premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance.
8. The driveway shall be paved from Route 23 to the entrance of the asphalt plant site. Access ways and on-site roads shall be maintained in a dust-free condition. Adequate measures shall be taken to insure that trucks exiting the parcel onto Route 23 shall not discharge debris on the roadway.
9. Operations shall be conducted so that noise levels and air and water standards comply with federal and State of Illinois requirements. A copy of all required state/federal permits shall be on file with the McHenry County Code Enforcement Officer.
10. The machinery shall be removed from the Property in Question after the Conditional Use Permit expires unless renewal is granted by the McHenry County Board. If the conditional use expires or is abandoned, the Property in Question shall be returned to its original landscape. The Property in Question shall be regraded and no less than six (6) inches of topsoil shall be replaced where land has been disturbed (plant and stockpile areas).
11. All federal, state, and local laws shall be met.

Elizabeth Scherer made a motion to amend Condition #10 to "If the conditional use expires or is abandoned **for more than one year...**" Vicki Gartner seconded the motion. The Board voted in favor of the change. Ms. Scherer made a motion to approve the proposed conditions, as amended. Ms. Gartner seconded the motion. The Board voted to approve the Conditions. Charles Eldredge made a motion to recommend approval of the Conditional Use, subject to the 11 approved Conditions. Ms. Gartner seconded the motion. Mr. Eldredge noted that the property is very well maintained and well screened from adjacent property. Ms. Scherer stated that the use

is well located. The remaining Board members agreed, and indicated that the request meets the 2030 Land Use Plan.

12. Facts that support recommending *approval* of the request:

- 1.) The Standards for Conditional Use, listed in Article 5, under Section 502.3 of the 2000 McHenry County Zoning Ordinance have been met to the satisfaction of the Zoning Board of Appeals.
- 2.) The 2030 Land Use Plan map designates the property as office, research, and industrial, which Board members felt was a compatible classification.
- 3.) The business has been operating for 10 years without complaints or violations.

13. Facts that support recommending *denial* of the request: None

14. Motion: Made by Charles Eldredge, seconded by Vicki Gartner for the renewal of the existing Conditional Use Permit (Ordinance #01-72) for premises under the terms of Section 502 of the McHenry County Zoning Ordinance to allow the production, storage and distribution of asphalt products and stockpiling, crushing, screening, and processing of raw materials, including recycled products, to manufacture such products, subject to the following conditions:

1. The Conditional Use Permit shall be limited to ten (10) years from the date of approval by the McHenry County Board.
2. The site shall be in substantial compliance with plans prepared by HR Green, dated May 11, 2011, attached as Exhibit #1.
3. The hours of operation shall be from 5:00 a.m. to 6:00 p.m., Monday through Saturday during the months of March through December.
4. Containment structures must be constructed and maintained for all storage tanks on the Property in Question.
5. The owner/operator shall take adequate measures to insure that contaminated surface water runoff shall not enter ponds or other areas of open standing water.
6. To the extent lawfully permitted by the Illinois Department of Revenue, the point of sale of processed and/or distributed asphalt products shall be deemed to originate in the County of McHenry, Illinois.
7. There shall be no dumping of debris of any kind on the site. The premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance.
8. The driveway shall be paved from Route 23 to the entrance of the asphalt plant site. Access ways and on-site roads shall be maintained in a dust-free condition. Adequate measures shall be taken to insure that trucks exiting the parcel onto Route 23 shall not discharge debris on the roadway.
9. Operations shall be conducted so that noise levels and air and water standards comply with federal and State of Illinois requirements. A copy of all required

state/federal permits shall be on file with the McHenry County Code Enforcement Officer.

10. The machinery shall be removed from the Property in Question after the Conditional Use Permit expires unless renewal is granted by the McHenry County Board. If the conditional use expires or is abandoned for more than one year, the Property in Question shall be returned to its original landscape. The Property in Question shall be regraded and no less than six (6) inches of topsoil shall be replaced where land has been disturbed (plant and stockpile areas).
11. All federal, state, and local laws shall be met.

15. Vote: 6 - AYES; 0 - NAYS; 0 - ABSTAIN

Elizabeth Scherer - Aye
Vicki Gartner - Aye
Charles Eldredge - Aye
John Rosene - Aye
Patricia Kennedy - Aye
Edward Haerter - Aye

GOES TO COUNTY BOARD WITH ZBA RECOMMENDATION FOR APPROVAL

1 site plan. The site plan does accommodate for the
2 asphalt to go under those locations you mentioned. Did
3 you feel that we needed to address it any further than
4 that?

5 MS. KENNEDY: If it's -- well, I should say
6 that is designated on the site plan. So I am content.

7 MS. KOLNER: Okay.

8 CHAIRMAN HAERTER: Any further comments on the
9 conditions? Okay. At this time I will take a motion to
10 approve the conditions.

11 MS. SCHERER: So moved.

12 MS. GARTNER: I will second.

13 CHAIRMAN HAERTER: Okay. All in favor aye.

14 (All ayes heard.)

15 CHAIRMAN HAERTER: Opposed?

16 (No audible response.)

17 CHAIRMAN HAERTER: Motion carries. Take a
18 motion on the proposed conditional use.

19 MR. ELDREDGE: So moved.

20 MS. GARTNER: I will second.

21 CHAIRMAN HAERTER: Okay, Mr. Eldredge.

22 MR. ELDREDGE: This is a petition for renewal
23 of an existing conditional use. The site is in, from my
24 observation when I went out to visit it, very well

1 maintained, neat and professional. It's well screened
2 from adjacent property. The water management, I think,
3 is effectively done to keep drainage appropriately
4 on-site. The area is an area that is heavily industrial
5 and otherwise gravel and extractive locations nearby.

6 The testimony was that the operation up
7 to now has been without material complaint from nearby
8 parties and without violations or any material
9 violations relating to the site or to the operation. So
10 I am in favor of the extension of the conditional use as
11 requested.

12 CHAIRMAN HAERTER: Ms. Scherer?

13 MS. SCHERER: The property is two miles south
14 of the Village of Marengo on the west side of Route 23.
15 On the north side of the property is a sand and gravel
16 operation. The east side of the property is sand and
17 gravel. To the south is -- south and west are
18 agriculture. The Riley Township Plan calls for
19 commercial in this area. I think they have been
20 operating here for ten years. It's a 38-acre site.
21 There were not complaints from anyone here.

22 I believe it's as well located as it
23 possibly can be for the work that they're doing. They
24 are not mining any sand or gravel. It's just the

1 recycling business. And I think that this is a perfect
2 location for it.

3 CHAIRMAN HAERTER: Thank you. Mr. Rosene?

4 MR. ROSENE: Well, I agree with what's been
5 said. And I recall from the previous hearing what I
6 found very interesting was the topography of the site
7 was kind of self-contained as it related to water runoff
8 and things like that. So I am in favor of it.

9 CHAIRMAN HAERTER: Thank you. Miss Kennedy?

10 MS. KENNEDY: Yes. The recycling of asphalt
11 and concrete provides an important resource to the
12 county. Having a siting near gravel pits has a
13 potential to reduce the trucking distance that's needed
14 to be added to the chipped asphalt when it was
15 reconstituted for reuse. In the 2030 Land Use Plan map,
16 this area is indicated for office research and
17 industrial. I believe that this use falls within that
18 classification.

19 Since the conditional use was first
20 approved, McHenry County has approved a number of
21 ordinances that speak to the protection of surface and
22 ground water. This property is indicated as being in a
23 sensitive aquifer recharge area of the SARA map and as
24 such, has a high contamination potential. Speaking with

1 the water resources management director, she believes
2 that as long as the containment units as defined on the
3 list of proposed conditions are maintained and the solid
4 asphalt or concrete surface is maintained under and in
5 the area of the batch plant liquid asphalt tanks and
6 fuel tanks, she believed that the concerns for water
7 pollution would be addressed and mitigated. Because of
8 this, I will be supporting the conditional uses.

9 CHAIRMAN HAERTER: Thank you. Mrs. Kooistra?

10 MS. KOOISTRA: No.

11 CHAIRMAN HAERTER: You weren't here on this
12 one. Okay. And Mrs. Gartner?

13 MS. GARTNER: I have not got one more thing to
14 add. I'd be in favor of it.

15 CHAIRMAN HAERTER: I agree with all the
16 comments that have been made. This area, if you drive
17 pass it, and even the road to the east is predominantly
18 either industrial or gravel pits and operations like
19 this. Meyer Material has a cement plant just down the
20 road south and east of this. So it's -- these things
21 are a necessary evil. They're not nice to look at, but
22 we do have a resource of gravel in this county and we do
23 need places to put together road building and the type
24 of materials that are produced here. So I'd be in

1 favor, also.

2 At this time I will call for the vote.

3 Mrs. Scherer?

4 MS. SCHERER: Yes.

5 CHAIRMAN HAERTER: Mrs. Gartner?

6 MS. GARTNER: Yes.

7 CHAIRMAN HAERTER: Mr. Eldredge?

8 MR. ELDREDGE: Yes.

9 CHAIRMAN HAERTER: Mr. Rosene?

10 MR. ROSENE: Yes.

11 CHAIRMAN HAERTER: Mrs. Kennedy?

12 MS. KENNEDY: Yes.

13 CHAIRMAN HAERTER: And I will vote yes. So
14 this will go to the County Board with a six zero vote
15 recommending approval.

16 MR. ZANCK: Thank you very much.

17

18 ---OoO---

19

20

21

22

23

24

ORDINANCE NO. _____

STATE OF ILLINOIS)
) SS
COUNTY OF McHENRY)

BEFORE THE McHENRY COUNTY ZONING BOARD OF APPEALS

IN THE MATTER OF THE PETITION OF)
A R LAND CO. AND PETER BAKER &)
SON CO., ILLINOIS CORPORATIONS,)
FOR THE RENEWAL OF AN EXISTING) NO. 11-31
CONDITIONAL USE PERMIT APPROVED)
BY ORDINANCE NO. 01-72 UNDER THE)
PROVISIONS OF THE ZONING ORDINANCE)
OF McHENRY COUNTY, ILLINOIS)

ORDINANCE

WHEREAS, your Petitioners, A R LAND CO. and PETER BAKER & SON CO., Illinois corporations, ("Petitioners") have filed a petition with the McHenry County Zoning Board of Appeals requesting the renewal of Conditional Use Permits under the Ordinance identified as Petition No. 01-72 on December 18, 2001 as it relates to the real property more fully described as follows:

THE EAST 1317.69 FEET OF THE SOUTH HALF OF THE NORTHWEST QUARTER (EXCEPT THE SOUTH 330.59 FEET THEREOF), OF SECTION 14, TOWNSHIP 43 NORTH, RANGE 5 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN MCHENRY COUNTY, ILLINOIS.

P.P.I. Part of 16-14-100-005

Hereinafter referred to as "Premises".

WHEREAS, the Petitioners request a renewal of the Conditional Use Permit under the Ordinance identified as Petition No. 01-72 on December 18, 2001, to allow the production, storage, and distribution of asphalt products and stockpiling, crushing, screening and processing of raw materials (including recycled products) to manufacture such products.

WHEREAS, Premises consists of approximately 30 acres, more or less. Premises is located on the west side of Route 23 approximately three-quarters of a mile north of its intersection with

Grange Road and commonly known as 8407 South Route 23, Marengo, Riley Township, Illinois 60152.

WHEREAS, a hearing on said application was held before the Zoning Board of Appeals of McHenry County, Illinois, in the manner and form prescribed by Ordinance and Statute.

WHEREAS, as a result of said hearing, the taking of evidence and the viewing of exhibits advanced thereat, the Zoning Board of Appeals of McHenry County did recommend by a vote of 6 ayes and 0 nays the granting of a renewal of the existing Conditional Use Permit within the "A-1"-Agricultural District, to allow the production, storage, and distribution of asphalt products and stockpiling, crushing, screening and processing of raw materials (including recycled products) to manufacture such products subject to the following eleven (11) conditions:

1. The Conditional Use Permit shall be limited to ten (10) years from the date of approval by the McHenry County Board.
2. The site shall be in substantial compliance with plans prepared by HR Green, dated May 11, 2011, attached as Exhibit #1.
3. The hours of operation shall be from 5:00 a.m. to 6:00 p.m., Monday through Saturday during the months of March through December.
4. Containment structures must be constructed and maintained for all storage tanks on the Property in Question.
5. The owner/operator shall take adequate measures to insure that contaminated surface water runoff shall not enter ponds or other areas of open standing water.
6. To the extent lawfully permitted by the Illinois Department of Revenue, the point of sale of processed and/or distributed asphalt products shall be deemed to originate in the County of McHenry, Illinois.
7. There shall be no dumping of debris of any kind on the site. The premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance.
8. The driveway shall be paved from Route 23 to the entrance of the asphalt plant site. Access ways and on-site roads shall be maintained in a dust-free condition. Adequate measures shall be taken to insure that trucks exiting the parcel onto Route 23 shall not discharge debris on the roadway.

9. Operations shall be conducted so that noise levels and air and water standards comply with federal and State of Illinois requirements. A copy of all required state/federal permits shall be on file with the McHenry County Code Enforcement Officer.
10. The machinery shall be removed from the Property in Question after the Conditional Use Permit expires unless renewal is granted by the McHenry County Board. If the conditional use expires or is abandoned for more than one year, the Property in Question shall be returned to its original landscape. The Property in Question shall be regraded and no less than six (6) inches of topsoil shall be replaced where land has been disturbed (plant and stockpile areas).
11. All federal, state, and local laws shall be met.

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Zoning Board of McHenry County.

WHEREAS, the McHenry County Board has determined that the standards for renewal of the existing Conditional Use Permit as set forth in the McHenry County Zoning Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE, BE IT ORDAINED, that the Zoning Ordinance and the Zoning Maps of McHenry County, and such Ordinances and such maps as amended, be and the same are hereby amended to allow the issuance of a renewal of Ordinance identified as Petition No. 01-72 on December 18, 2001 within the "A-1" - Agricultural District, to allow production, storage, and distribution of asphalt products and stockpiling, crushing, screening and processing of raw materials (including recycled products) to manufacture such products subject to the following eleven (11) conditions:

1. The Conditional Use Permit shall be limited to ten (10) years from the date of approval by the McHenry County Board.
2. The site shall be in substantial compliance with plans prepared by HR Green, dated May 11, 2011, attached as Exhibit #1.
3. The hours of operation shall be from 5:00 a.m. to 6:00 p.m., Monday through Saturday during the months of March through December.
4. Containment structures must be constructed and maintained for all storage tanks on the Property in Question.
5. The owner/operator shall take adequate measures to insure that contaminated surface water runoff shall not enter ponds or other areas of open standing water.

6. To the extent lawfully permitted by the Illinois Department of Revenue, the point of sale of processed and/or distributed asphalt products shall be deemed to originate in the County of McHenry, Illinois.

7. There shall be no dumping of debris of any kind on the site. The premises shall be neat and orderly, free from junk, trash or unnecessary debris. Buildings shall be maintained in a sound condition, in good repair and appearance.

8. The driveway shall be paved from Route 23 to the entrance of the asphalt plant site. Access ways and on-site roads shall be maintained in a dust-free condition. Adequate measures shall be taken to insure that trucks exiting the parcel onto Route 23 shall not discharge debris on the roadway.

9. Operations shall be conducted so that noise levels and air and water standards comply with federal and State of Illinois requirements. A copy of all required state/federal permits shall be on file with the McHenry County Code Enforcement Officer.

10. The machinery shall be removed from the Property in Question after the Conditional Use Permit expires unless renewal is granted by the McHenry County Board. If the conditional use expires or is abandoned for more than one year, the Property in Question shall be returned to its original landscape. The Property in Question shall be regraded and no less than six (6) inches of topsoil shall be replaced where land has been disturbed (plant and stockpile areas).

11. All federal, state, and local laws shall be met.

If any part, sentence, clause or provision of this Ordinance is adjudged to be unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED: This 20th day of September, 2011.

By: _____
Chairperson, McHenry County Board
McHenry County, Illinois

ATTEST:

County Clerk

Number Voting Aye: _____

Number Voting Nay: _____

Number Abstaining: _____

Number Absent: _____

Staff Report for the McHenry County Zoning Board of Appeals

Petition: # 11-31

Hearing Date: August 3, 2011

Applicant: A R Land Co., owner of record, and Peter Baker & Son Co., lessee

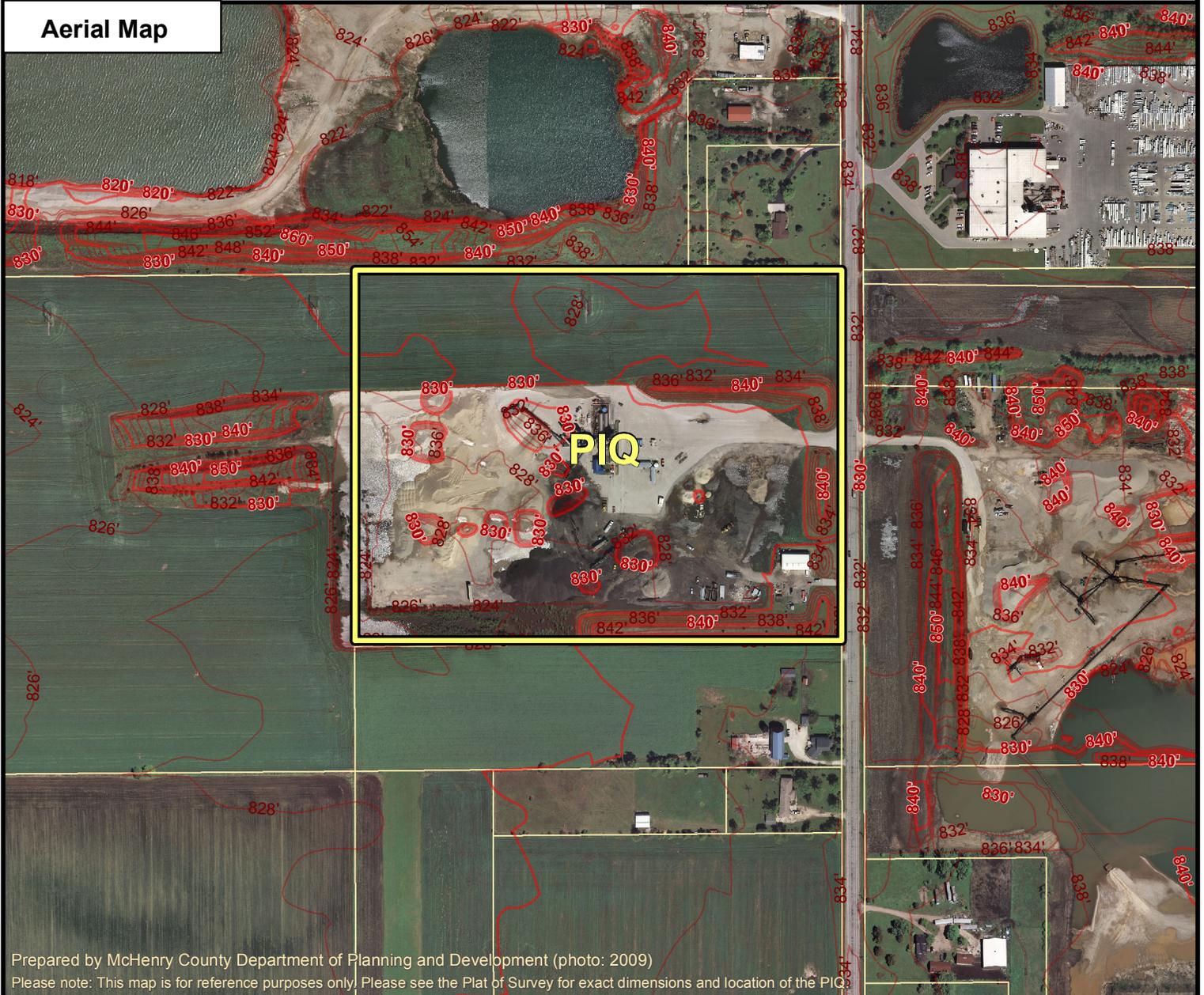
Request: The renewal of the existing Conditional Use Permits (Ordinance #01 -72) for Premises under the terms of Section 502 of the McHenry County Zoning Ordinance to allow the production, storage, and distribution of asphalt products and stockpiling, crushing, screening, and processing of raw materials (including recycled products) to manufacture such products.

Location: The Property in Question (PIQ) consists of approximately 30 acres and is located on the west side of Route 23 approximately three-quarters of a mile north of the intersection of Grange Road and Route 23, in Riley Township

Address: 8407 Route 23, Marengo, Illinois 60152

PIN: Part of 16-14-100-005

Aerial Map



Prepared by McHenry County Department of Planning and Development (photo: 2009)

Please note: This map is for reference purposes only. Please see the Plat of Survey for exact dimensions and location of the PIQ.

Elevation

(feet above sea level)

— 10-foot contours



1 inch equals 400 feet



Staff Report for the McHenry County Zoning Board of Appeals

STAFF COMMENTS

The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

Conditional Use Request

The requested conditional use, being a pre-existing established use in the area, is not in conflict with the surrounding agricultural, earth extraction, and commercial uses. However, it is not consistent with the adjacent single-family residential uses. The requested conditional use will not affect the underlying zoning of *A-1 Agriculture*. The PIQ has a LE score of 23.06, therefore, would not be considered among the "most productive agricultural lands." The SARA map shows the PIQ has a high potential for aquifer contamination. INDR has indicated that there are several (nest) records of the State-listed endangered Swainson's Hawks in the vicinity of the PIQ. The requested conditional use is compatible with the Future Land Use map designation of OFFICE, RESEARCH, INDUSTRIAL.

BACKGROUND

The PIQ is approximately 30 acres (PART OF PIN 16-14-100-005). The site plan shows that there is a utility building, control house, silo and asphalt plant located on the PIQ. The prior conditional uses on the property for the production, storage, and distribution of asphalt products and stockpiling, crushing, screening and processing of raw materials is set to expires December 18, 2011.

STAFF ANALYSIS – CONDITIONAL USE REQUEST

The purpose of the Conditional Use is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

1) Current Land Use:

The requested conditional use, being a pre-existing established use in the area, is not in conflict with the surrounding agricultural, earth extraction, and commercial uses. The request conditional use is not consistent with the adjacent single-family residential uses. There are two earth extraction uses in the vicinity of the PIQ, one to the north and the other to the southeast of the PIQ.

2) Zoning:

The requested conditional use will not affect the current zoning, which is *A-1C Agriculture* district.

3) 2030 Comprehensive Plan text:

The conditional use area would not be considered among the "most productive agricultural lands" because of its LE score of 23.06. The PIQ is located within a Sensitive Aquifer Recharge Area. However, some of these areas are where asphalt processing activities have already occurred.

4) 2030 Comprehensive Plan Future Land Use map:

The requested conditional use is compatible with the map designation of OFFICE, RESEARCH, INDUSTRIAL.

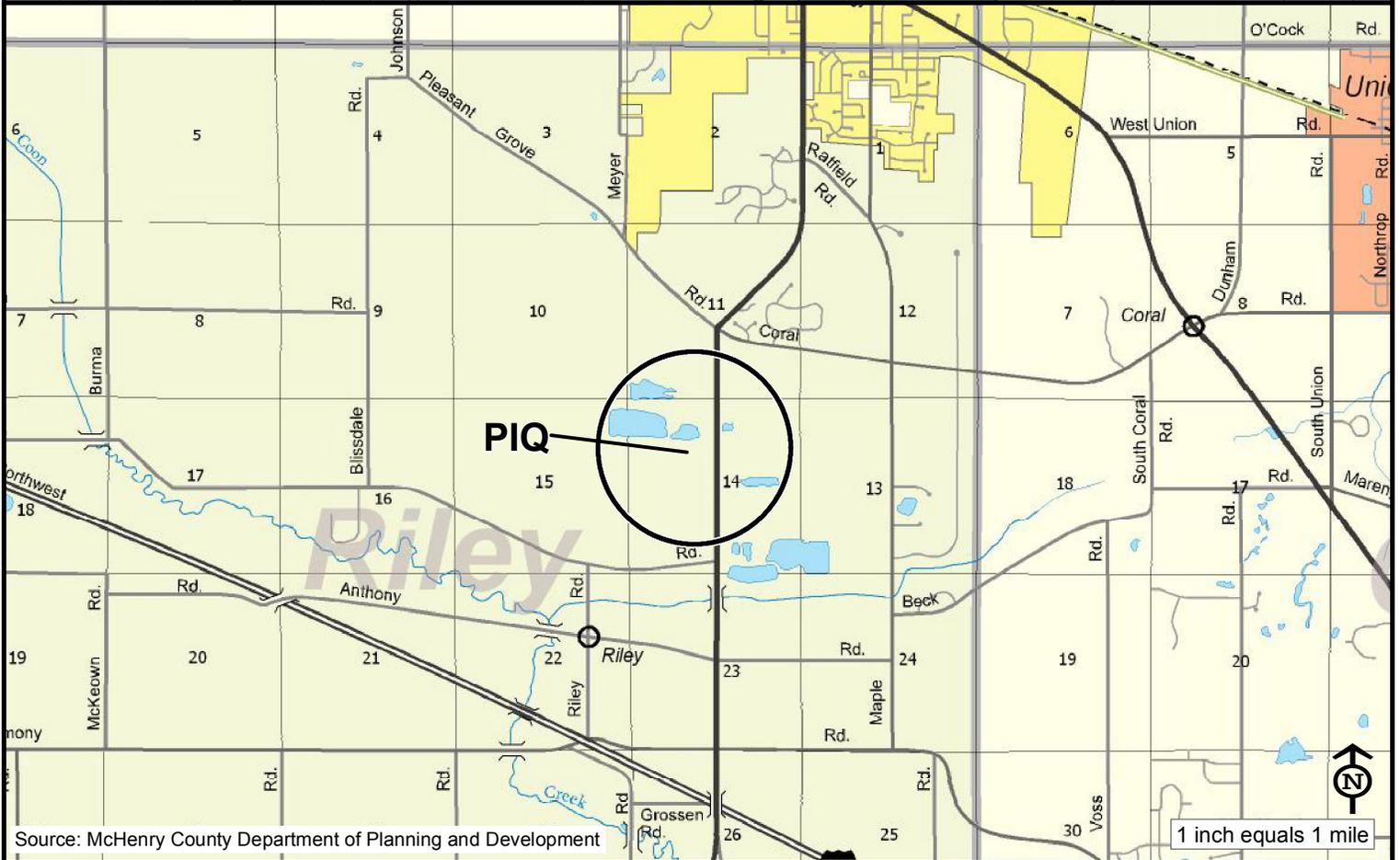
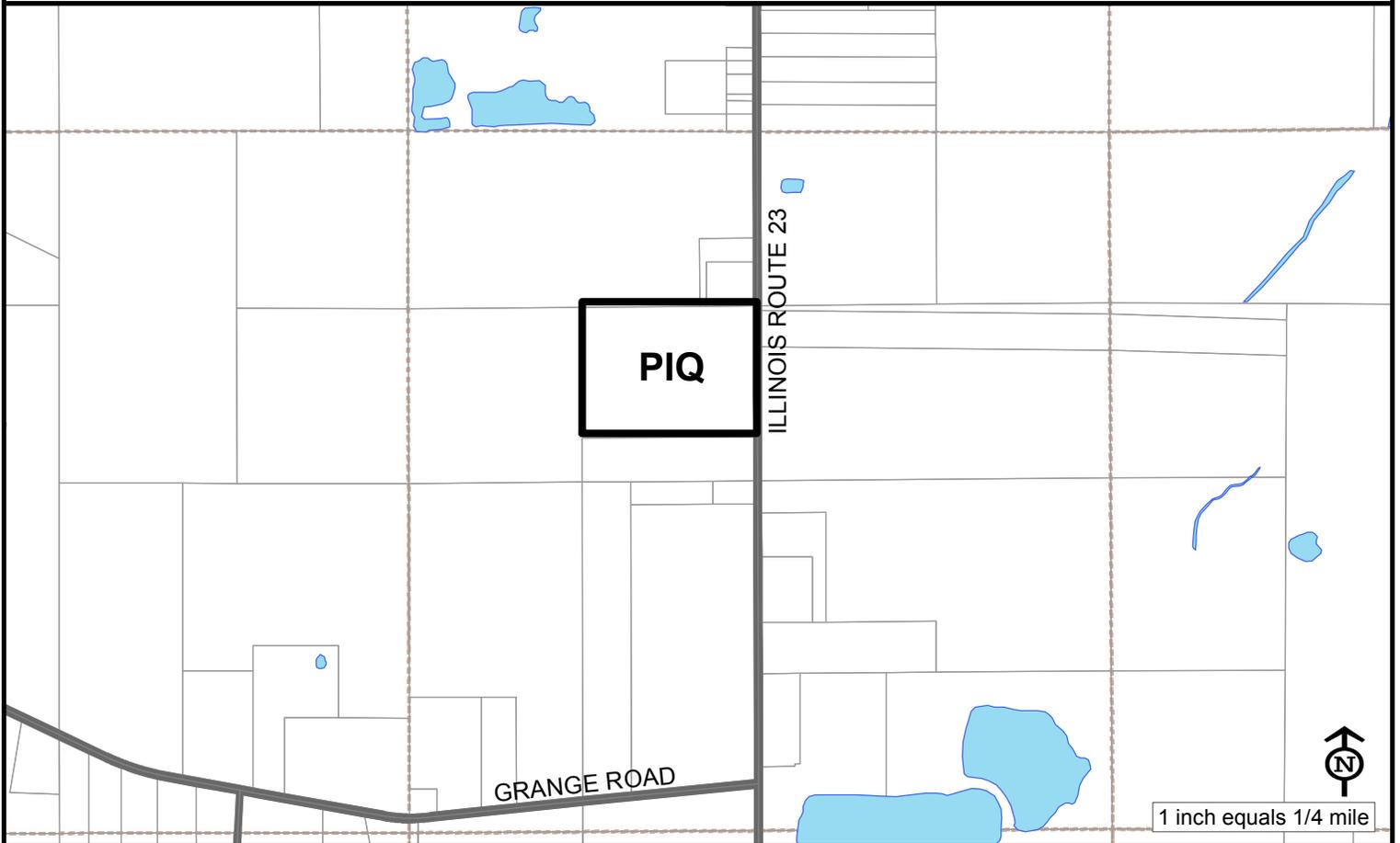
5) Environmental Factors:

According to the SARA map, the PIQ has a high potential for aquifer contamination. The PIQ does contain floods-of-record. There are no wetlands or floodplains within the conditional use area. The McHenry County Soil and Water Conservation District Natural Resources Inventory report was received. Please refer to NRI 11-025-3676 for more information. The Illinois Department of Natural Resources (IDNR) indicated that there are several (nest) records of the State-listed endangered Swainson's Hawks in the vicinity of the PIQ. IDNR recommendations measures are taken to insure the protection of a State endangered species.

NOTES

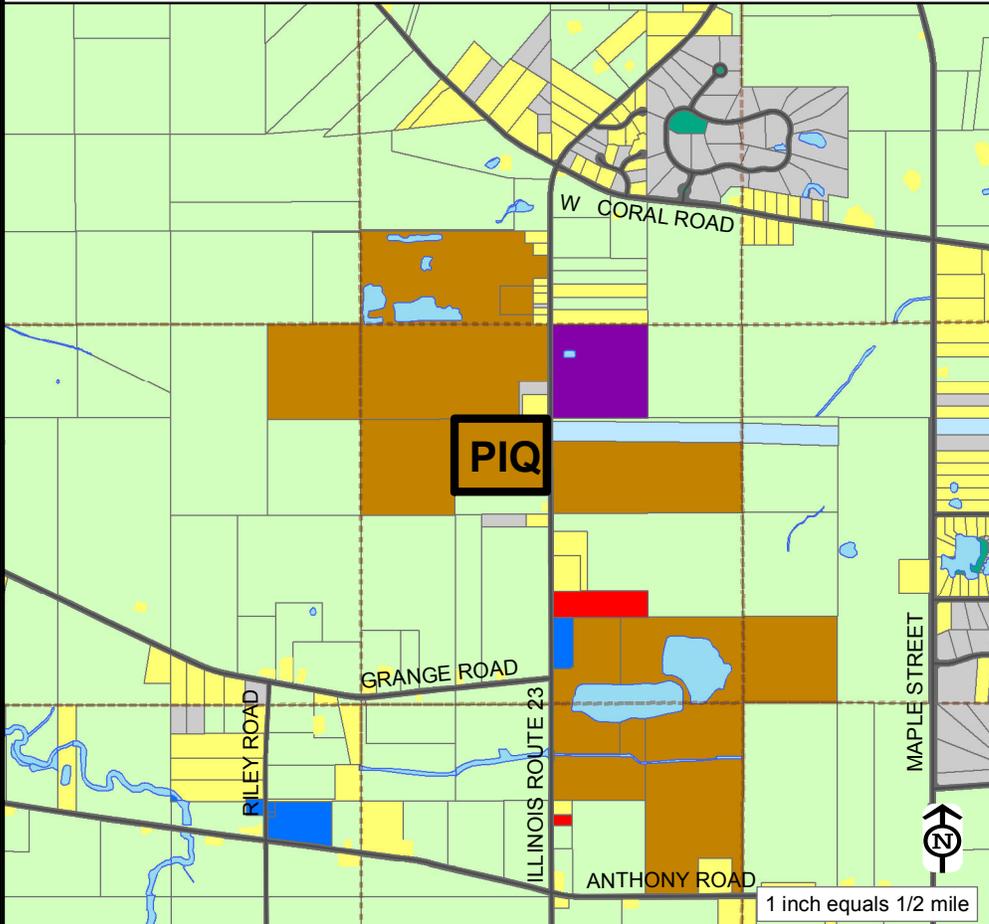
- All requirements of Article 5, Section 502.3 STANDARDS FOR CONDITIONAL USE must be met, and

Report prepared July 12, 2011 by Kimberly S. Kolner, Associate Planner
McHenry County Department of Planning & Development



Source: McHenry County Department of Planning and Development

Current Land Use Map



Current Land Use of the PIQ

Earth Extraction

Land Use Adjacent to the PIQ

North: *Earth Extraction, Vacant & Single-Family Residential*

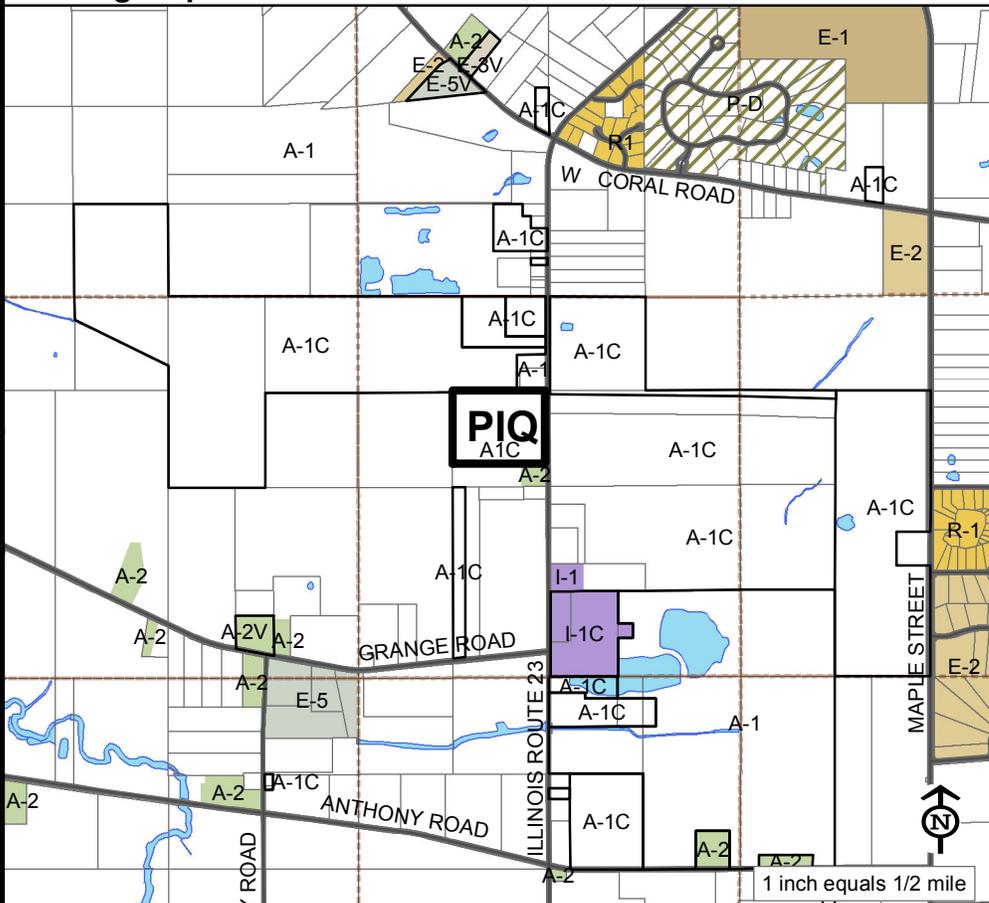
South: *Agriculture*

East: *Earth Extraction*

West: *Earth Extraction & Transportation Communication, Utilities*

- Agriculture
- MCCD Agriculture
- Single-Family Residential
- Multi-Family Residential
- Open Space
- Golf Course
- Commercial
- Office
- Industrial
- Mixed Use
- Earth Extraction
- Vacant
- Government / Institutional
- Transportation, Communication, Utilities

Zoning Map



Current Zoning / PIQ:

A-1C Agriculture Adjacent Zoning

North: A-1 & A-1C Agriculture

South: A-1 & A-2 Agriculture

East: A-1C Agriculture

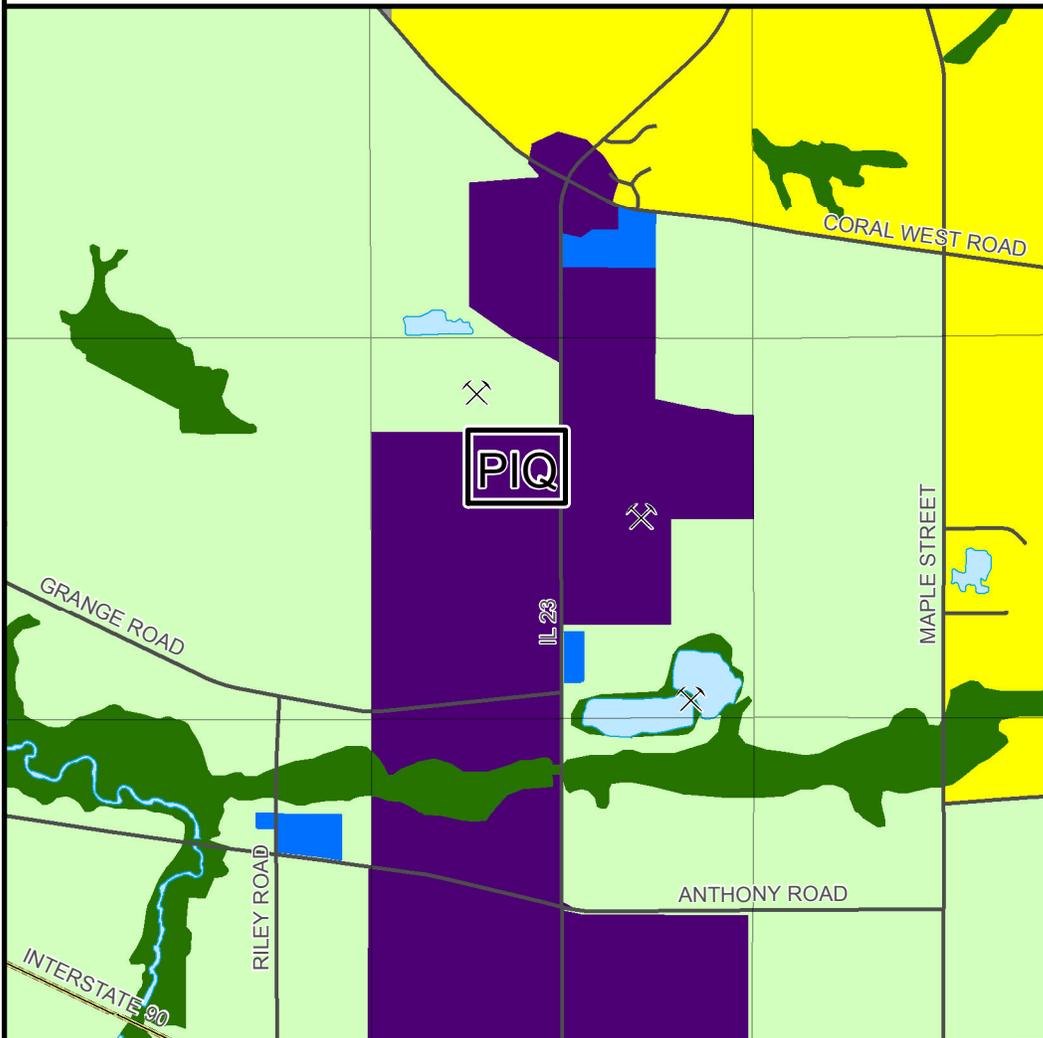
West: A-1 Agriculture

- A-1 Agriculture
- A-2 Agriculture
- E-5 Estate
- E-3 Estate
- E-2 Estate
- E-1 Estate
- R-1 Single-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- B-1 Neighborhood Business
- B-2 Liquor Business
- B-3 General Business
- O Office / Research
- I-1 Light Industry
- I-2 Heavy Industry
- PD Planned Development
- C Conditional Use
- V Variation
- Incorporated

McHenry County 2030 Comprehensive Plan Future Land Use Map

Future Land Use Map Designation

OFFICE, RESEARCH, INDUSTRIAL



- Agricultural
 - Open Space
 - Environmentally Sensitive Area
 - Estate
 - Isolated Estate
 - Residential
 - Isolated Residential
 - Retail
 - Mixed Use
 - Office, Research, Industrial
 - Gov't, Institutional, Utilities
 - TOD Existing Rail Station
 - TOD Future Rail Station
 - Active Earth Extraction Site
 - Municipality
- Scale: 1 inch = 1/2 mile

Township Plan Designation

Riley Township: *Commercial*

Municipal Plan Designations

Marengo: *No Land Use Designation*

McHenry County 2030 Comprehensive Plan – Text Analysis

Land Use

Office/Research/Industrial includes existing and proposed areas for office, research, industrial, warehouse, and wholesale trade uses. The Office/Research/Industrial district is generally designated in close proximity to major arterial roadways and railroads. Most Office/Research/Industrial development will occur after annexation into municipalities. Some Office/Research/Industrial development, particularly uses that require large acreages and generated limited water usage, may occur in unincorporated areas. Within sensitive aquifer recharge areas, Office/Research/Industrial uses should be limited to 50% impervious surface coverage and be properly designed to contain any potential contaminants from polluting the aquifers.

Sensitive Aquifer Recharge Areas

The site does contain “high contamination potential” zones. There are also floods of record within the PIQ. There are no wetlands or floodplains within the conditional use area.

Sensitive Aquifer Recharge Areas (SARA)



- High Contamination Potential
- Moderate Contamination Potential

Community Character & Housing

No applicable text.

Agricultural Resources

Maintain and protect the most productive agricultural lands, where appropriate, by discouraging nonagricultural growth in these areas. (p. 29)

This request is for a renewal of a Conditional Use Permit for asphalt processing. About three-quarters of the land has already been used for this purpose and the LE score is 23.06. This would not be considered to be among the "most productive agricultural lands."

Greenways, Open Space & Natural Resources

Protect environmentally sensitive areas from negative impacts of adjacent land uses. (p.57, #9)

The PIQ does not contain any floodplains or wetlands. INDR has indicated that there are several (nest) records of the State-listed endangered Swainson's Hawks in the vicinity of the PIQ. IDNR recommendations measures are taken to insure the protection of a State endangered species. Please refer to IDNR letter dated July 20, 2011.

"These hawks rely on short grass prairies, grain and hay fields, pasture, and open fields for foraging as their diet mainly consists of insects (grasshoppers), small mammals, and birds. They require large areas of open space to sustain successful reproduction and healthy populations. Active nests of this species require a minimum of two square miles of foraging habitat and up to 12 square miles when hunting is poor. When too much of the foraging area is converted to residential and other non-agricultural uses, the hawks will likely abandon the vicinity.

Activities which occur near nest sites may have the consequence of harassing the hawks. This is important since research has shown that some hawks prefer to use the same nest sites for one or more years."

Water Resources

...land use and development should be carefully examined and regulated within sensitive groundwater recharge areas to ensure that the water quality, quantity, and natural recharge functions of the area are safely maintained. (p.67)

While the SARA map shows the PIQ to be in a sensitive aquifer recharge area, a large portion of it is within the area of the PIQ where asphalt processing activities have already occurred.

Economic Development

Based on the basic requirements of large site availability and access to transportation, the US Route 20 and IL Route 23 corridors in the southwestern portion of the County are likely targets for the location of dedicated office/research/industrial areas and business parks. (p.93)

Infrastructure

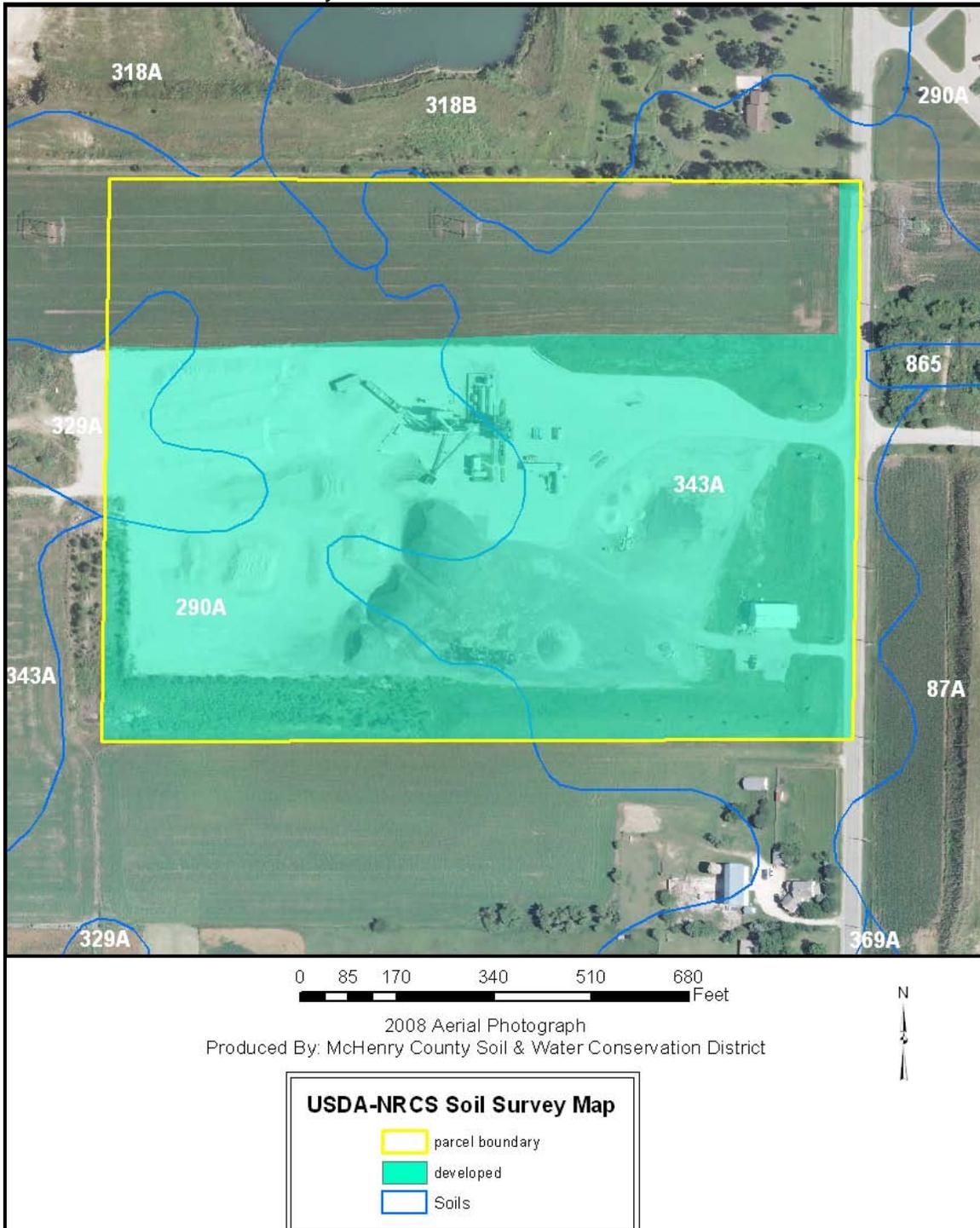
No applicable text.

2030 Comprehensive Plan Analysis

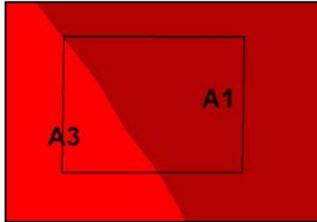
The conditional use area would not be considered among the "most productive agricultural lands" because of its LE score of 23.06. The PIQ is located within a Sensitive Aquifer Recharge Area. However, some of these areas are where asphalt processing activities have already occurred. INDR has indicated that there are several (nest) records of the State-listed endangered Swainson's Hawks in the vicinity of the PIQ. IDNR recommendations measures are taken to insure the protection of a State endangered species.

EXECUTIVE SUMMARY OF NRI REPORT # 11-025-3676

It is the opinion of the McHenry County Soil and Water Conservation District Board of Directors that this report as summarized on this page is pertinent to the requested zoning change. The soil information provided in this report is generated from maps and data obtained in McHenry County Soil View and the new soil survey.



Groundwater Contamination Potential and Recharge Areas:



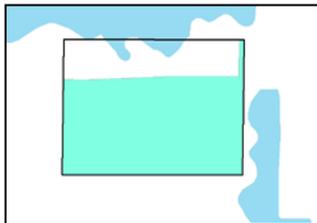
Aquifer Sensitivity Map (*This is the area beneath the soil profile down to bedrock)

The Geologic features map indicates the parcel is comprised of 21.75 acres of A1 and 7.79 acres of A3 geologic limitations. A1 and A3 have a high aquifer contamination potential.



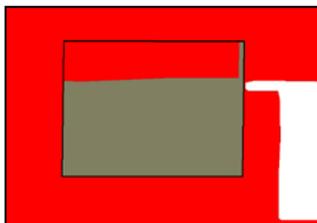
Sensitive Aquifer Recharge Areas (Includes the soil profile and underlying geology).

The Sensitive Aquifer Recharge Map indicates the entire parcel is within an area designated as Sensitive Aquifer Recharge.



Soil Leachability Map (This is only the soil profile within the parcel from the surface down to approx. 5 feet).

- The Soil Leachability Index indicates 3.03% or 0.90 acres of the parcel has a moderate or high leaching potential for fertilizers (includes household use).



Soil Permeability Map (This is only the soil profile within the parcel from the surface down to approx. 5 feet. Soil permeability is a reflection of the speed in which water (with or without pollutants) can move through the soil profile.)

- The USDA-NRCS Soil Survey Map of the area indicates 27.42% or 8.15 acres of the parcel has

soils which are highly permeable, allowing water to rapidly move through the soil profile. Highly permeable areas are identified in red.

Soil Limitations (This evaluates the parcel from the surface down to approximately 5 feet.):

Basement Limitations

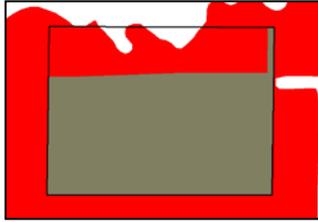
This parcel was not evaluated for basement limitations.

Septic Limitations

This parcel was not evaluated for septic system limitations.

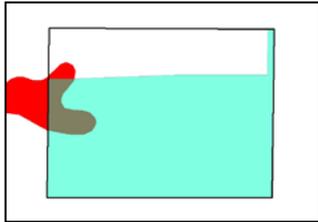
Erosion Ratings

The NRCS Soils Survey indicates 0% of the parcel has a severe erosion rating.



Prime Farmland Soils

The Natural Resources Conservation Service (NRCS) Soil Survey indicates that approximately 7.25 acres or 24.40% of the parcel are composed of prime farmland soils and "prime when drained" soils.



Hydric Soils

The NRCS Soil Survey indicates 0.25 acres or 0.84% of the parcel is comprised of hydric soils.

Floodplain Information:

The Flood Insurance Rate Map

Indicates 100-year floodplain is present on 0% of this parcel.

Flood of Record Map (Hydrologic Atlas)

The Flood of Record Map for this area indicates previous flooding on 0 acres of the parcel.

Wetland Information:

USDA-NRCS Wetland Inventory

The NRCS Wetlands Inventory identifies 0 acres of wetlands on the parcel.

ADID Wetland Inventory

The ADID Wetland Study indicates there are no wetlands on the parcel.

Cultural Resources: None identified

Woodlands: None identified

Agricultural Areas: Office Maps indicate agricultural there are no agricultural areas on or adjacent to the parcel.

Land Evaluation Site Assessment (LESA): The Land Evaluation score for the parcel is 23.06.

CONCERNS OF THE MCSWCD BOARD

Due to the high potential for aquifer contamination and the parcel's location within a sensitive aquifer recharge area, care should be exercised when handling oil, fuel and other chemicals. In these areas, contaminants from any source can move rapidly through these sand and gravel deposits to wells or nearby streams. In addition, this thick surficial aquifer is commonly hydraulically connected to underlying aquifers.



Illinois Department of Natural Resources

One Natural Resources Way Springfield, Illinois 62702-1271
<http://dnr.state.il.us>

Pat Quinn, Governor
Marc Miller, Director

July 20, 2011

Ms. Kim Scharlow
McHenry County Department of Planning and Development
2200 N. Seminary
Woodstock, IL 60098

**Re: A.R. Land Company/Peter Baker & Son Company Conditional Use Renewal – Asphalt Products
Endangered Species Consultation Program
Project Number(s): 1113523
County: McHenry**

Dear Applicant:

This letter is in reference to the above-noted project you recently submitted for consultation, located in Township 43 north, Range 5 east, Section 14 for consultation in accordance with the *Illinois Endangered Species Protection Act* [520 ILCS 10/11], the *Illinois Natural Areas Preservation Act* [525 ILCS 30/17], and Title 17 *Illinois Administrative Code* Part 1075.

The proposed action, renewal of a conditional use permit to allow the production, storage, and distribution of asphalt products in addition to stockpiling, crushing, screening and processing of raw materials to manufacture such products, is located west of IL 23, north of Grange Road, in Marengo. The parcel is in the vicinity of several (nest) records of occurrence of the State-listed endangered **Swainson's Hawk**, *Buteo swainsoni*.

These hawks rely on short grass prairies, grain and hay fields, pasture, and open fields for foraging as their diet mainly consists of insects (grasshoppers), small mammals, and birds. They require large areas of open space to sustain successful reproduction and healthy populations. Active nests of this species require a minimum of two square miles of foraging habitat and up to 12 square miles when hunting is poor. When too much of the foraging area is converted to residential and other non-agricultural uses, the hawks will likely abandon the vicinity.

Activities which occur near nest sites may have the consequence of harassing the hawks. This is important since research has shown that some hawks prefer to use the same nest sites for one or more years. To minimize potential impacts, the Department recommends the following measures be implemented by the applicant and incorporated into the County's project authorization.

1. Should future monitoring for this species find new nests in the vicinity of this proposed zoning action, the Department would appreciate the opportunity to work with the applicant's company in efforts for continued monitoring and surveying on and near the site, if need be, in addition to potential mitigation measures to keep them in the area.
2. The Department recommends that if additional mining related activities are to occur in the southern or western area of the project footprint, trees within this area be surveyed, by a qualified biologist, for Swainson Hawk nests.

Printed on recycled and recyclable paper

3. The applicant should be aware that the likelihood of Incidental Take increases if project activities occur close to a nest site, as the definition of 'take' includes 'to harass'. If nests are discovered before or during the commencement of additional mining extraction, processing, reclamation, or recycling operations, an incidental take could likely occur. Incidental Take Authorization from the Department's Office of Resource Conservation would then be encouraged before the project continues.

Consultation on the part of the Department is completed. In accordance with 17 Ill. Adm. Code 1075.40 (h), the County must notify the Department of its decision regarding these recommendations, whether they will:

- Allow the action to proceed as originally proposed;
- Require the action to be modified per Department recommendations (please specify measures, if not all will be required); or
- Forgo the action.

This consultation is valid for two years unless new information becomes available that was not previously considered; the proposed action is modified; or additional species, essential habitat, or Natural Areas are identified in the vicinity. If the project has not been implemented within two years of the date of this letter, or any of the above listed conditions develop, a new consultation is necessary.

The natural resource review reflects the information existing in the Illinois Natural Heritage Database at the time of the project submittal, and should not be regarded as a final statement on the site being considered, nor should it be a substitute for detailed site surveys or field surveys required for environmental assessments. If additional protected resources are encountered during the project's implementation, you must comply with the applicable statutes and regulations. Also, note that termination does not imply IDNR's authorization or endorsement of the proposed action.

Please contact me if you have questions regarding this review.

Cordially,



Kathi Davis
Impact Assessment Section
Division of Ecosystems & Environment
Kathi.davis@illinois.gov
217-785-5500

Enclosure

Cc: Brad Semel, IDNR/Region II/Restoration Ecology
Ray Eisbrener, IDNR/Region II Wildlife
Cindy Skrukrud, McHenry County Defenders/1075.70
Lisa Haderlein, Land Conservancy of McHenry County/1075.70

Printed on recycled and recyclable paper

HEARING OFFICER REPORT TO THE MCHENRY
COUNTY BOARD IN THE MATTER OF PETITION #11-33

Recommendation: Approve as amended at hearing: originally the Petition sought a variation for the entire western boundary of the parcel but at hearing the Petitioner agreed to limit the requested variation to the northern 130 feet of the western boundary of their parcel.

1. Petitioners MMR Holdings, LLC, owner of record.
2. Request: A Variation within the I-1 Light Industrial District to allow a 19 foot transition yard setback from the A-1 Zoning to the west of the property in question instead of the 75 feet required for the northern 130 feet of the property.
3. Location & size of property in question: The subject property consists of approximately 0.87 acres and is located at the west side of Illinois Route 31 approximately 700 feet south of the intersection with Veteran Parkway in Nunda Township, McHenry County, Illinois. The common address of the property is 1903 South Illinois Route 31, McHenry, Illinois.
4. Present at hearing:
 - Susan Connor, Hearing Officer
 - Terrence J. McKenna, counsel for Petitioner
 - Mike Rogulic, Matt Rogulic, members of MMR Holdings
 - Kim Kolner, County Staff
5. Date, time and location of the hearing: August 10, 2011 at 9:00 a.m. McHenry County Government Center, Ware Road Administration Building, Woodstock, IL 60098.
6. Items of evidence: Plat of Survey
7. Summary of Testimony at the hearing:

The Hearing Officer opened the meeting and explained that the Petitioners were before the Board requesting the variation described above and that the burden was on the Petitioners to demonstrate compliance with the standards for a variation contained in the McHenry County Zoning Ordinance.

The property owners explained that they had recently acquired the subject parcel onto which they sought to locate their HVAC (heating and air conditioning) business -- into the building already existing on the parcel but that they further sought to construct an addition to the existing structure to store materials and equipment necessary for this business. The minimum rear yard in the I-1 District in which the property is located is 20 feet however because the property is bordered on the west by agricultural property a 75-foot transition yard is required by the ordinance.

8. Planning and Development Report:

Adjacent land use:

North: Industrial
South, east and west: Agriculture

Adjacent zoning:

North: I-1 Light Industrial

South, east and west: A-1 Agriculture

The property is designated Industrial on the McHenry County Land Use Plan Map. The petitioner has applied for a Natural Resources Inventory Report and it has been determined that a full report will not be necessary. For further information refer to NRI Number L11-027-3678. According to FIRM Map Panel Number 17111C 0220J, and USGS HA-255 (McHenry), the property in question does not contain a flood hazard area.

9. Recommended findings of fact:

The Standards for Variation, listed in Article 7, under Section 703 of the McHenry County Zoning Ordinance, have been met and granting the variation is recommended. Proposed findings follow.

A. The particular surroundings shape or topographical condition of the specific property involved would result in a particular hardship upon the owner, as opposed to a mere inconvenience, if the strict letter of the regulations were carried out.

The property in question consists of a parcel on which an existing commercial structure has long existed. This existing structure has associated with it a parking lot to one side; a septic system and replacement area for future septic replacement in the future on the other side and a front yard in which an addition is not permitted. This leaves the only possible area of the parcel on which additional structure can be constructed in the rear. The rear yard is sufficiently large to comply with the setback requirements of the I-1 district but much more (75 feet) is required for the sole reason that the property abuts land zoned A-1. The parcel is too small to permit any reasonable addition without a variation and the existing structure is too small to permit reasonably economically viable use of the parcel for commercial use without a variation of the required transitional yard.

B. The conditions upon which the Petition for a variation are based is unique to the property for which the variation is sought and are not applicable, generally, to other property within the same zoning district.

The uniqueness of the Petitioners' property is due to the present state of its development together with the parcel abutting A-1 zoning. Specifically, the parcel is unique in the placement of existing development on the parcel and the size and location of the accessory septic and parking lot.

C. The purpose of the variation is not based exclusively on a desire to increase the monetary gain realized from the property.

The variation is sought in order for the property owners to be able to have reasonable use of their property.

D. The alleged difficulty or hardship is caused by the ordinance and has not been created by any person having an interest in the property.

The property has long been zoned and used for the type of business the Petitioner proposes and the hardship is created by the pre-existing development and subsequent enactment of a very deep (75 feet) transitional yard requirement. The Petitioner did not create the hardship.

E. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.

The addition proposed to the subject property will have no material impact on adjacent agricultural uses nor will it result in a diminution in property values: because of the new business moved to this property, enhancement of property values may result.

F. The proposed variation will not impair an adequate supply of light or air to the adjacent property or substantially increase 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 adjacent neighborhood.

The rear yard that will exist with the grant of the requested variation will be at least 19 feet which allows more than adequate room for public and emergency vehicle access to and from the property and there is no material light and air issue, given the setback that will be provided.

G. The granting of the variation requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings of the same zoning district.

The granting of this variation will merely allow property owners to utilize their property reasonably and they have met their burden of establishing that, without the variation requested, this is not possible. Accordingly the granting of the variation requested will not confer on the applicant any special privilege.

Respectfully submitted,

Susan Marie Connor

Susan Marie Connor

IN THE MATTER OF THE APPLICATION OF)
MMR HOLDINGS LLC FOR A VARIANCE) 11-33
TO THE ZONING ORDINANCE OF McHENRY)
COUNTY, ILLINOIS)

ORDINANCE

WHEREAS, MMR HOLDINGS LLC ("Petitioner") is the owner of record of the real estate (the "Property") commonly known as 1903 South Illinois Route 31, McHenry, Nunda Township, Illinois (P.I.N.: 14-10-451-004) as legally described as follows:

That part of the Southwest Quarter of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian, described as follows: Commencing at the Northwest corner of the Southwest Quarter of the Southeast Quarter of Section 10 and running East along the North line of said Southwest Quarter, 10 chains to the center of the Highway; thence Southwesterly along the center of the Highway, 215 feet to the place of beginning; thence running 281 feet West, parallel with the North line of said Southwest Quarter, thence South parallel with the West line of said Southwest Quarter, 186 feet; thence East, parallel with the North line of said Southwest Quarter, 188 feet to the center of the Highway; thence Northeasterly along the center line of the Highway, 208 feet to the place of beginning, in Township 44 North, Range 8, East of the Third Principal Meridian, in McHenry County, Illinois.

WHEREAS, Petitioners have filed a Petition with the McHenry County Hearing Officer requesting that a variance be granted pursuant to Section 701(1) of the McHenry County Zoning Ordinance (the "Ordinance") to the 75 foot minimum transitional yard requirement set forth in the Zoning Ordinance Bulk Chart to permit a 19 foot transitional yard setback from the A-1 zoning to the West for the North 130 feet of the Property.

WHEREAS, the Property consists of .87 acres, and is located at 1903 South Illinois Route 31, McHenry, Nunda Township, Illinois.

WHEREAS, on August 10, 2011, a hearing on said Petition was held by Susan Connor, McHenry County Hearing Officer in the manner and the form prescribed by the Ordinance and Statute;

WHEREAS, as result of said hearing, the taking of evidence and the viewing of exhibits advanced thereat, the McHenry County Hearing Officer did recommend the granting of the variance to permit a 19 foot transitional yard setback from the A-1 zoning to the West for the North 130 feet of the Property instead of the required 75-foot minimum.

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the McHenry County Hearing Officer; and

WHEREAS, the McHenry County Board has determined that the requirements for the granting of the Variance for the Property have been met.

NOW, THEREFORE BE IT ORDAINED, that the Zoning Ordinance and Zoning Maps of McHenry County, and such Zoning Ordinances and such Maps as amended, be and the same hereby are amended to allow a Variance for the Property to permit a 19 foot transitional yard setback from the A-1 zoning to the West for the North 130 feet of the Property instead of the required 75-foot minimum.

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED this _____ day of _____, 2011.

By: _____
Chairperson, McHenry County Board
McHenry County, Illinois

ATTEST:

By: _____
County Clerk

NUMBER VOTING AYE: _____

NUMBER VOTING NAY: _____

NUMBER ABSTAINING: _____

NUMBER ABSENT: _____

PREPARED BY:
Terrence J. McKenna
FRANKS, GERKIN & MCKENNA, P.C.
Attorneys for Petitioner
19333 E. Grant Hwy., P. O. Box 5
Marengo, IL 60152
(815) 923-2107
J:\Docs\zoning.tjm\MMR HOLDINGS\ordinancerevision9.6.11.wpd

**PLAN REVIEW REPORT
VARIATION REQUEST PETITION #11-33**

Petitioner: MMR Holdings LLC, owners of record.

Request: A *Variation* within the *I-1 Light Industrial* district to allow a 19 foot transition yard setback from the A-1 zoning to the west of the PIQ from the 75 foot minimum transition yard requirements.

Location: The subject property consists of 0.87 acres and is located at the west side of Illinois Route 31 approximately 700 feet south of the its intersection with Veteran Parkway. Common address: 1903 South Illinois Route 31, McHenry, Illinois in Nunda Township. PIN: 14-10-451-004

Existing Land Use: The property is designated *OFFICE* on the Existing Land Use map.

Adjacent Land Use:
North: *Industrial*
South: *Agriculture*
East: *Agriculture*
West: *Agriculture*

Current Zoning: The property is currently zoned *I-1 LIGHT INDUSTRY*

Adjacent Zoning:
North: *I-1 Light Industry*
South: *A-1 Agriculture*
East: *A-1 Agriculture*
West: *A-1 Agriculture*

McHenry County 2030 Comprehensive Plan The property is designated as *INDUSTRIAL* on the *McHenry County Land Use Plan Map*.

Municipal Plans within 1.5 miles:
McHenry: *Commercial*
Prairie Grove: *Corridor Commercial*

Physical Features: The petitioner applied for a Natural Resources Inventory Report. It was determined that a full report was not necessary. For further information refer to NRI Letter 11-027-3678. According to the Plat of Survey, the PIQ contains a one-story brick commercial building, and gravel and asphalt drive. According to F.I.R.M. Map, Panel No. 17111C 0220J and U.S.G.S. HA-255 (McHenry) the PIQ does not contain a flood hazard area.

Comments/Conclusion: The petitioner should be aware that under Section 703 of the *McHenry County Zoning Ordinance*, several standards are cited, all of which must be met in order for a variance to be granted. These standards relate to hardship (as distinguished from mere inconvenience), unique conditions, not elusively a desire for monetary gain, cause of hardship, impact to neighbors, and that the variation requested would not confer any special privilege to the applicant that is not afforded to others of the same district.

A preliminary report by the Illinois Department of Natural Resources (IDNR) indicates that there are Blanding's Turtles in the vicinity of the parcel, the consultation has been received.

Aerial Photo

Petition # 11-33

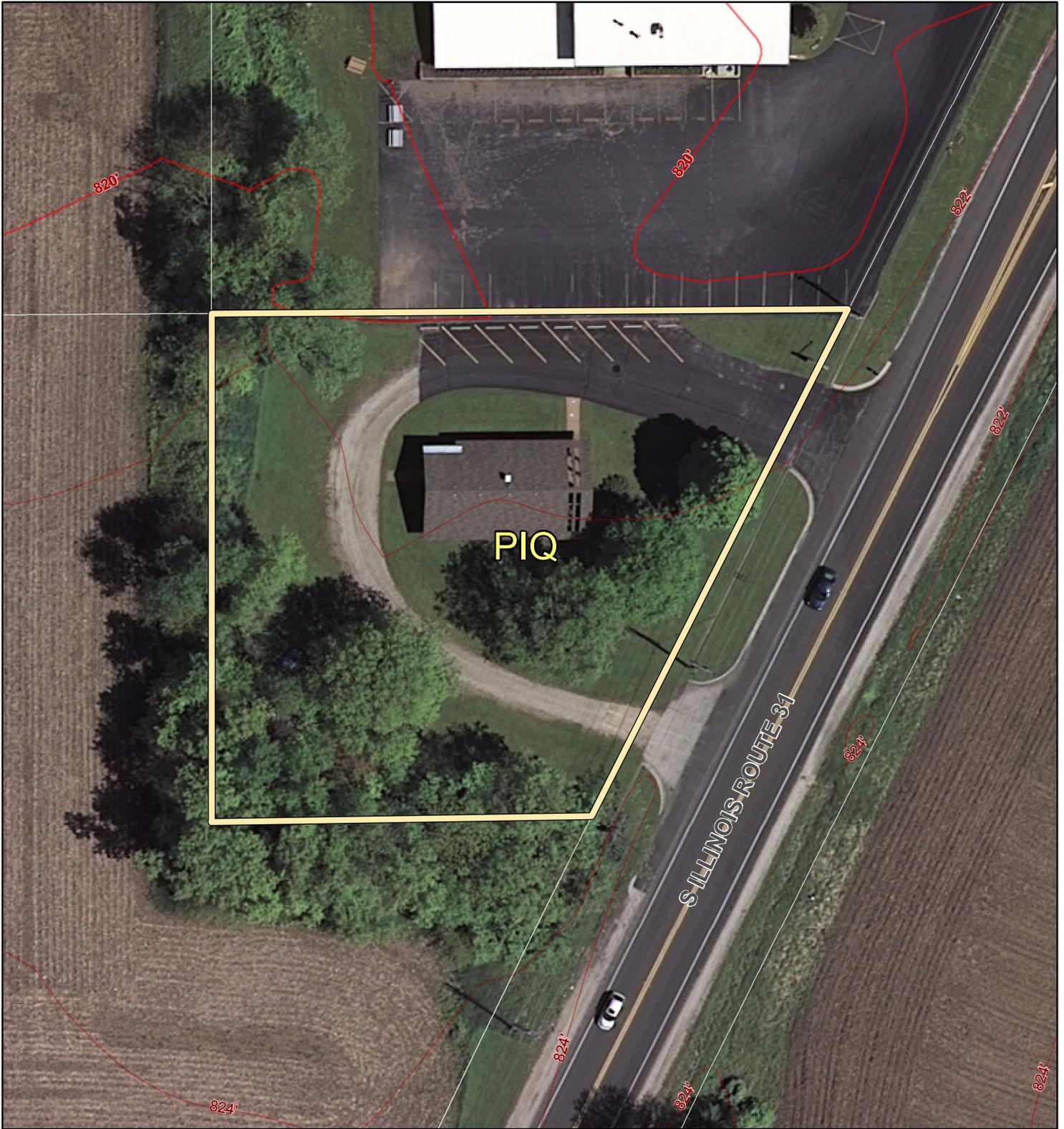
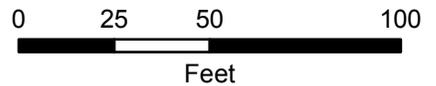


Photo: 2009

Any parcel lines depicted on the aerial photograph are for general reference only. Please refer to the plat of survey for the location of lot or parcel lines.

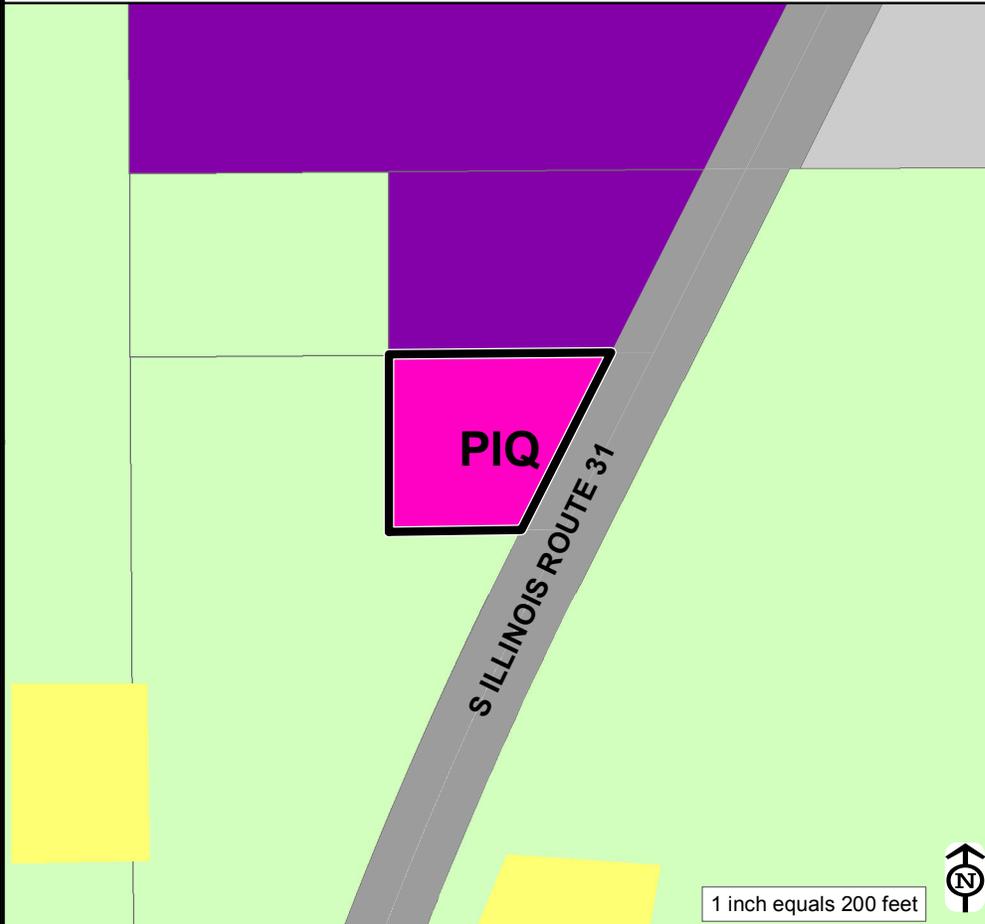
Elevation (feet above sea level)

- 10-foot contours
- 2-foot contours



Prepared by the McHenry County
Department of Planning and Development

Current Land Use Map



Current Land Use of the PIQ

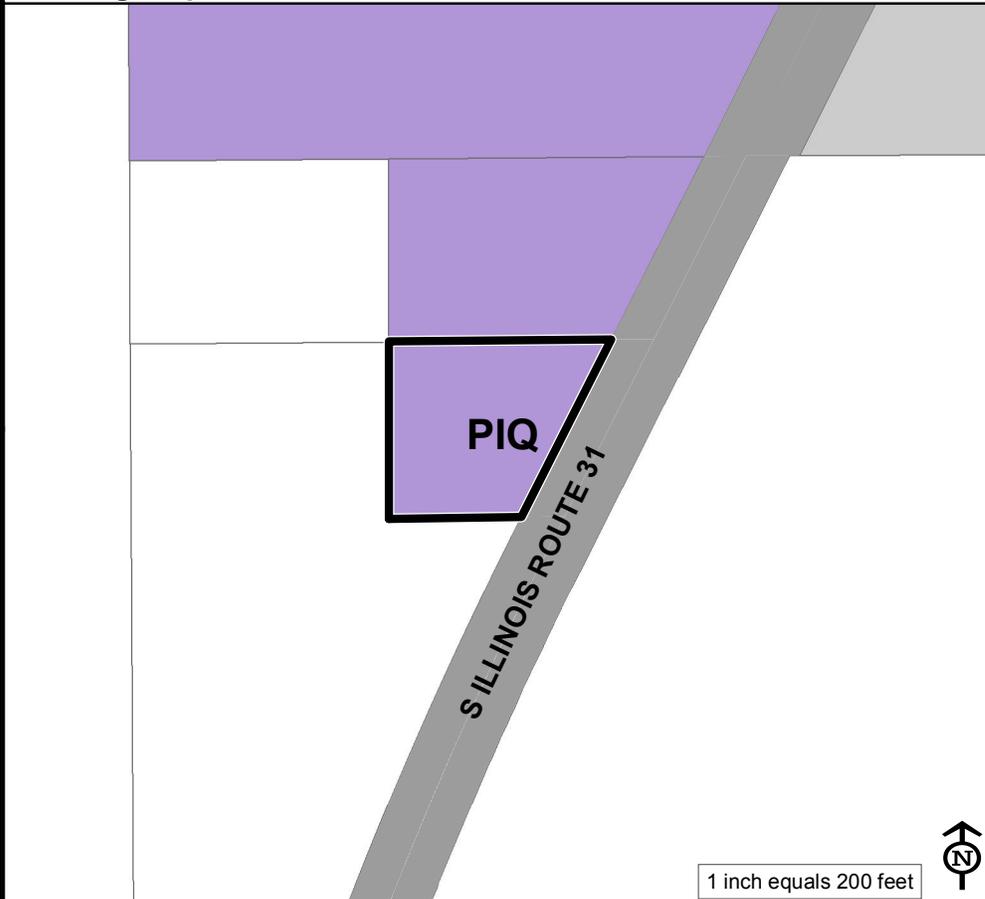
Office

Land Use Adjacent to the PIQ

North: *Industrial*
 South: *Agriculture*
 East: *Agriculture*
 West: *Agriculture*

- Agriculture
- MCCD Agriculture
- Single-Family Residential
- Multi-Family Residential
- Open Space
- Golf Course
- Commercial
- Office
- Industrial
- Mixed Use
- Earth Extraction
- Vacant
- Government / Institutional
- Transportation, Communication, Utilities

Zoning Map



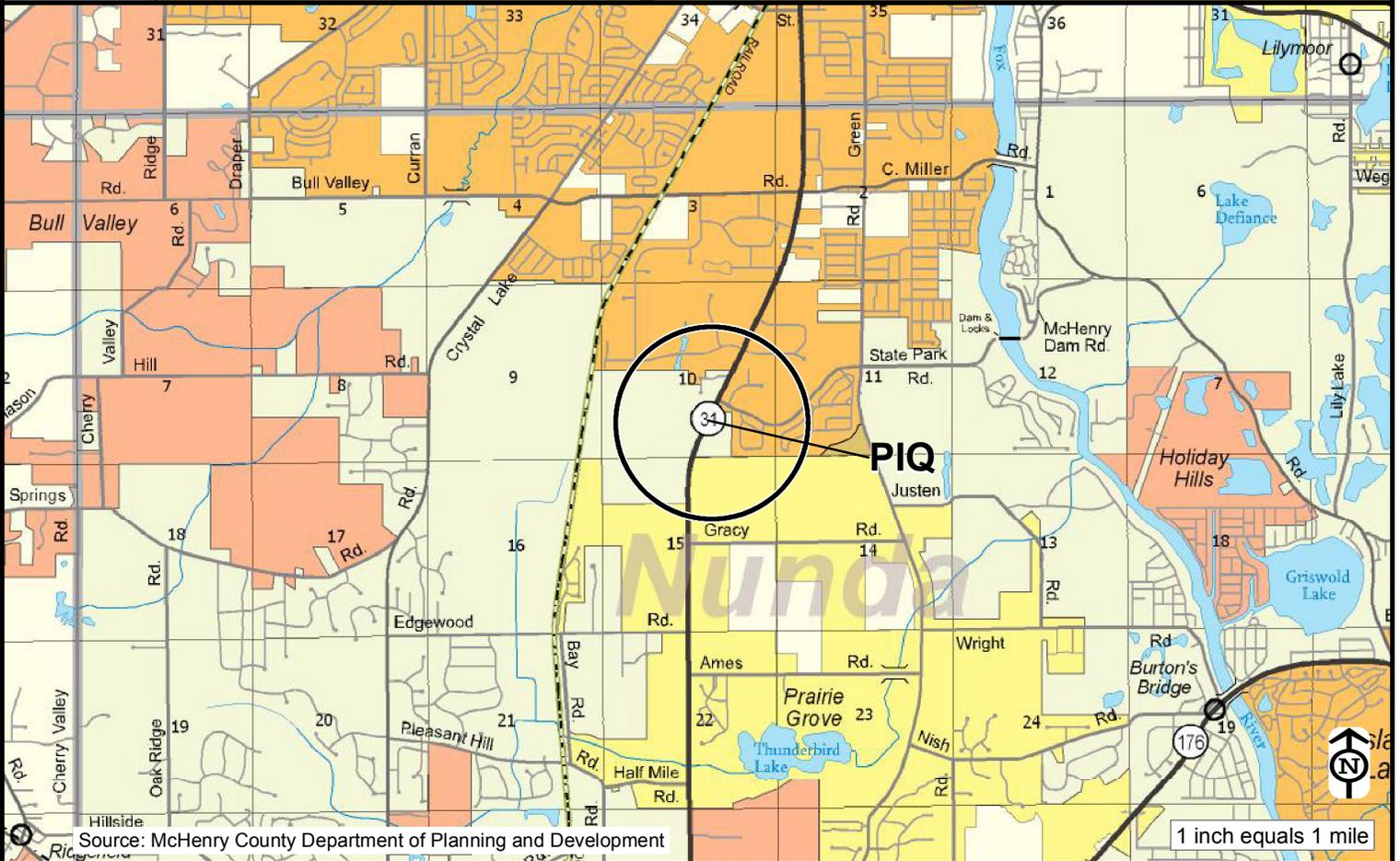
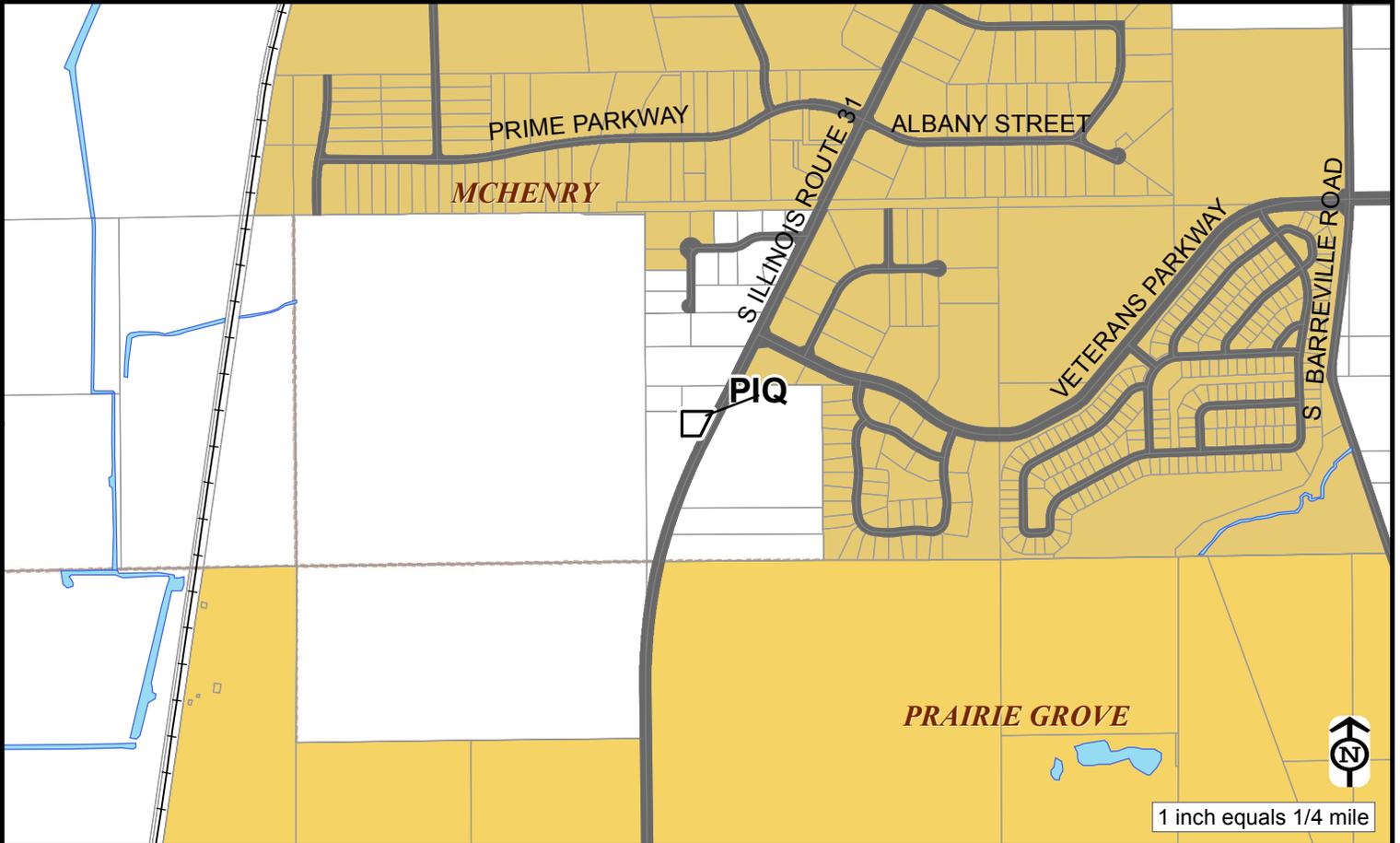
Current Zoning of the PIQ

I-1 Light Industrial

Zoning Adjacent to the PIQ

North: I-1 Light Industrial
 South: A-1 Agriculture
 East: A-1 Agriculture
 West: A-1 Agriculture

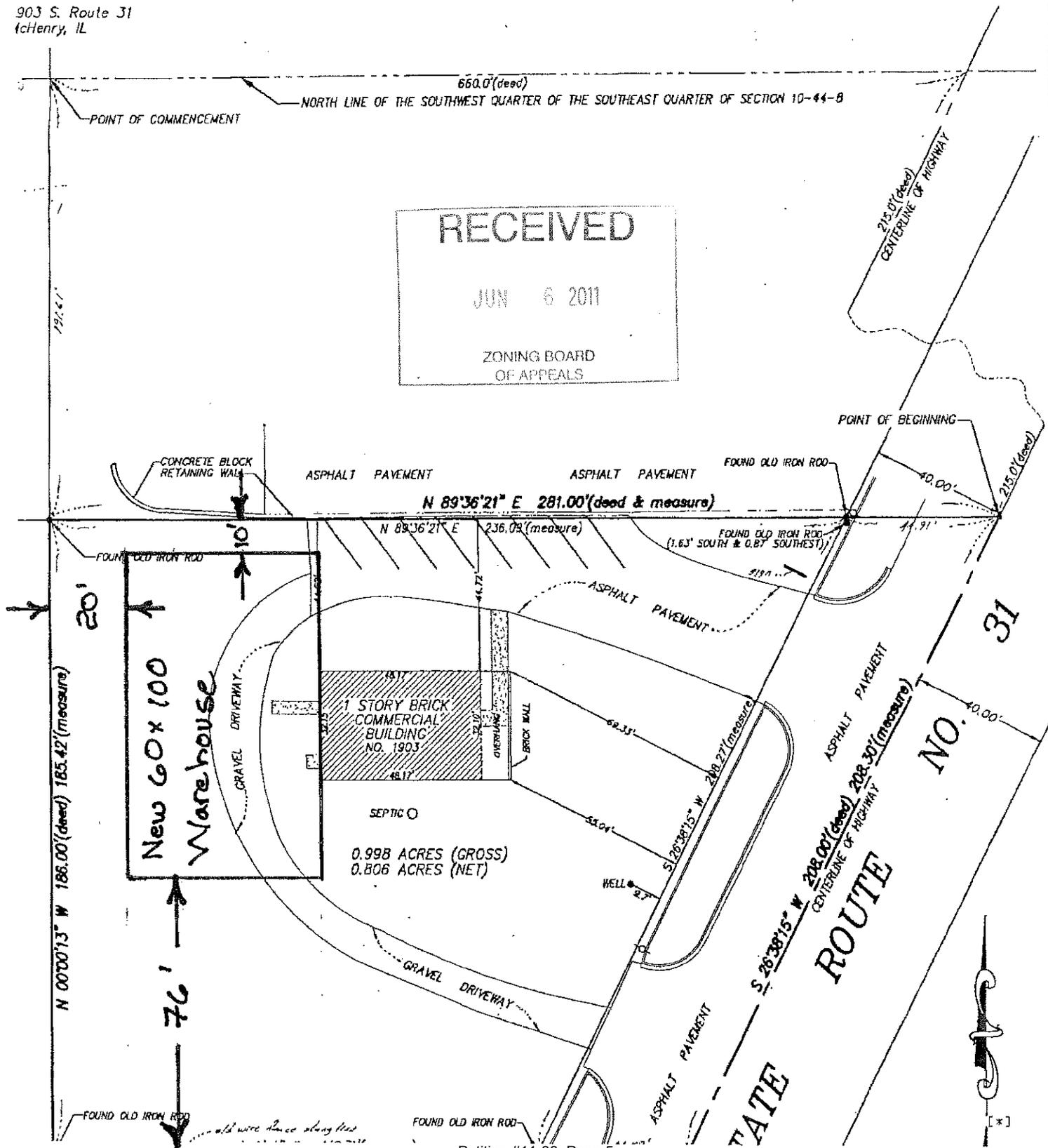
- A-1 Agriculture
- A-2 Agriculture
- E-5 Estate
- E-3 Estate
- E-2 Estate
- E-1 Estate
- R-1 Single-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- B-1 Neighborhood Business
- B-2 Liquour Business
- B-3 General Business
- O Office / Research
- I-1 Light Industry
- I-2 Heavy Industry
- PD Planned Development
- C Conditional Use
- V Variation
- Incorporated



PLAT OF SURVEY

That part of the Southwest Quarter of the Southeast Quarter of Section 10, Township 44 North, Range 8, East of the Third Principal Meridian, described as follows: Commencing at the Northwest corner of the Southwest Quarter of the Southeast Quarter of Section 10 and running East along the North line of said Southwest Quarter, 10 chains to the center of the highway; thence Southwesterly along the center of the Highway, 215 feet to the place of beginning; thence running 281 feet West, parallel with the North line of said Southwest Quarter, thence South parallel with the West line of said Southwest Quarter, 186 feet; thence East, parallel with the North line of said Southwest Quarter, 188 feet to the center of the highway; thence Northeasterly along the center line of the Highway, 208 feet to the place of beginning, in Township 44 North, Range 8, East of the Third Principal Meridian, in McHenry County, Illinois.

903 S. Route 31
McHenry, IL



ZONING BOARD OF APPEALS REPORT
TO THE MCHENRY COUNTY BOARD

PETITION #: 10-29

1. **Petitioner:** Lamon J. Edmonds, as Trustee of the Edmonds Family Revocable Trust No. 92-1, Owner of Record
2. **Request:** Reclassification from the "B-1" Neighborhood Business District to the "B-3" General Business District with a Conditional Use Permit to allow for the storage of commercial vehicles and equipment, to allow a single family residence, and to allow the production, processing and storage of firewood and mulch on the property in question.
3. **Location & size of property in question:** The property in question consists of 1 acre and is located on the northeast corner of Windy Hill Road and US Route 14 in Dunham Township, McHenry County, Illinois. Common address: 20314 S. Route 14, Harvard, Illinois.
4. **Date and time of hearing:** December 2, 2010 @ 1:30 PM
Date and time of voting meeting: April 26, 2011 @ 9:30 A.M.
5. **Location of hearing and voting meeting:** McHenry County Government Center, 2200 North Seminary Avenue, Woodstock, Illinois 60098, Administration Building, 667 Ware Road, Conference Room B
6. **Present at hearing:**
 - A. ZBA Members: Richard Kelly - Chairman, Edward Haerter, Linnea Kooistra, Vicki Gartner, Charles Eldredge, Elizabeth Scherer, David Stone
 - B. Witnesses: Lamon Edmonds, Jose Esquivel, Darren Stroud
 - C. Attorney: Jay K. Filler, Jr.
 - D. Public: Kim Kolner - County Staff, Darrell Moore - County Staff, Patricia Kennedy, Darren Strood, Don Coffey, Mary Edmonds
7. **Items of evidence:** Emerald Ash Borer Compliance Agreement Certificate, Emerald Ash Borer Firewood Importer's Certificate application
8. **SUMMARY OF TESTIMONY AT HEARING:**

Chairman Kelly called the meeting to order and indicated that the Petitioners were before the Board requesting a reclassification from the "B-1" Neighborhood Business District to the "B-3" General Business District with a Conditional Use Permit to allow for the storage of commercial vehicles and equipment, to allow a single family residence, and to allow the production, processing and storage of firewood and mulch on the property in question.

Lamon Edmonds was called as a witness. Mr. Edmonds is the sole beneficiary of the Edmonds Family Revocable Trust No. 92-1, which is the owner of record of the subject property. He purchased the property in 1983 or 1984. At the time he purchased the property, it had been used as a car lot for 34 years. Previous uses

on the property since the 1940s include a restaurant and camping trailer sales. Mr. Edmonds pointed out that someone resided on the property when the car lot was in business, and there had been two residences on the property until about three years ago, when one of them was removed. The main building on the property is used primarily for a residence, as Mr. Edmonds noted it has been since the 1940s. There is some space within the back part of that structure, currently a two-car garage, which could be converted to business use.

Jay Filler stated that the Plat of Survey depicted an 8'x8' shed located up against the existing home that had been moved to a conforming location since the filing of the zoning application. An existing trailer on the subject property was also moved to a new location so that it is not located on the septic field. The trailer contains a washroom, but it needs to be reconnected to the septic field.

Mr. Edmonds pointed out that the property to the west of the subject property is vacant, as well as the property to the south across Route 14. He noted that all of the land surrounding the subject property is presently zoned A-1.

Mr. Edmonds indicated that the vehicles and equipment being stored on the property belong to a tenant that operates a landscaping and tree removal business. The tenant also stores firewood and may need to store additional landscaping materials such as sand. Mr. Edmonds explained that a benefit to being located on Route 14 is the exposure for the business. If there was screening in front of the parcel, it would limit the exposure. He noted that he has never received a complaint from neighbors regarding the uses on the property. Mr. Edmonds addressed the Standards for Conditional Use and Amendment, pointing out that the proposed use would not have any impact on traffic flow in the area and it would be consistent with the agricultural uses in the area, as landscaping is somewhat of an agricultural use itself.

Jose Esquivel was called as the next witness. Mr. Esquivel stated that his partner, Hermilo Juan Pichardo, resides on the subject property. The two men own Power Tree Service and Stump Removal, which is a tenant on the property. Mr. Esquivel explained that there are currently three trailers and six trucks being stored on the property, as well as other equipment such as small machines and a skid loader. A wood chipper and stump grinder are also kept on site. At the most, they anticipate up to ten trailers being stored on site. Firewood is the only material currently stored on site, but they are looking to also store mulch, timber, blocks, top soil, sand and gravel. All trucks would be stored on the north side of the property. Material storage would be on the east side of the building.

Mr. Esquivel stated that he currently has seven employees but anticipates having 10 or 15 within the next year. They primarily work off-site, but come to the subject property to pick up trucks and then leave for the jobsites. Mr. Esquivel noted that the trailer located on the subject property is used as an office for paperwork only. If they are unable to obtain a building permit for the trailer, they would apply for a permit to convert a portion of the main building into an office that would need to meet commercial code. When asked about the activities on site, Mr. Esquivel clarified that the wood splitting is done on site, while the wood chipper is taken off site to produce the mulch. However, it is possible as

the business expands, that some chipping may be done on site in the future. Elizabeth Scherer stressed that she would like to know if there are diseased trees being brought back to the subject property for processing, specifically due to the fact that there is Conservation District property around the subject property.

Staff indicated that they believe the subject property is a good location for the business use, as it is located along Route 14 and has had B-1 zoning since 1949. They also believe all Standards for Conditional Use and Reclassification had been addressed. Charles Eldredge suggested that Staff inquire of the Conservation District to see if they have any issues in regards to the request and also whether the parking area proposed will be adequate. Staff indicated that they would hold off on their recommendation until a revised site plan is received.

Patricia Kennedy spoke on behalf of Dunham Township. She stated that residents in the area have accepted the subject property for the previous business uses that have been on site, but they are not happy about the increase in wood storage and the prospect of mulch on site. They also have concerns about the potential other uses that could be used under B-3 zoning if it is granted to this property. Ms. Kennedy also pointed out that the property is surrounded by Agriculture zoning and the Land Use Plan designates it as Agriculture as well. The Dunham Township Plan encourages light industrial and commercial activities to be adjacent to existing municipalities, which this property is not. For these reasons, the Township believes the requested B-3 zoning, as well as the storage of commercial equipment and vehicles and production, processing and storage of firewood and mulch on the property, would be inappropriate for the subject property and requested that the ZBA vote to deny the Petition.

David Stone made a motion that the Department of Planning and Development not be directed to contact the Conservation District regarding potential concerns, as they did receive notice of the hearing. Ed Haerter seconded the motion for purposes of discussion. Mr. Eldredge explained that he wanted to be sure they were not being overlooked by contacting them directly. The Board voted against Mr. Stone's motion, so the Conservation District would still be contacted per Mr. Eldredge's request.

Don Coffey, property owner of the field to the south and west of the subject property, stated that he objects to the proposed zoning change and agrees with the statements of Ms. Kennedy.

9. Planning & Development Department Staff Report-Comments and Conclusions:

The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

Request for Reclassification from B-1 Neighborhood Business to B-3 General Business

This request for rezoning to *B-3 General Business* is compatible with the surrounding land use of open space, as it serves as a buffer. The request is not

consistent with the adjacent *A-1 Agriculture* zoning. However, its location adjacent to an arterial highway, its proximity near the City of Harvard and the long-standing business use at this site make for an appropriate location for this requested use. The request is consistent with the text of the *2030 Plan's* objective to encourage development near existing infrastructure. However it is not consistent with the *2030 Plan* map designation of AGRICULTURAL.

Staff would recommend approval of the reclassification.

Conditional Use Request

These Conditional Use requests are compatible with the surrounding land use of open space, as it serves as a buffer. The requested conditional use will not affect the underlying zoning, which is proposed to be *B-3 General Business* district. The 2030 Plan text is mixed regarding the proposals. The conditional use request for a single-family residence would be creating an opportunity for a live-work housing unit. However the text is neutral regarding the conditional uses for storage of commercial vehicles and equipment and the production, processing and storage of firewood and mulch. The requested conditional uses are not consistent with the map designation of AGRICULTURAL.

The petitioner must provide evidence in the hearing they the proposed uses will meet the requirements set forth in the *2000 McHenry County Zoning Ordinance* for a Conditional Use.

BACKGROUND

In 1949 the Property in Question (PIQ) was rezoned from the *F-Farm* district to its current zoning district, *B-1 Neighborhood Business* by Petition #407. The PIQ is approximately 1 acre in area (PIN 06-12-400-006). Structures on the site include a one-story frame & brick building, a metal shed and a metal-clad trailer. A billboard sign is located on the southern most corner of the site. There is a request-for-service (RFS) currently open for unlawful storage of commercial vehicles and equipment on the property in question. The granting of the requested conditional use by the McHenry County Board would make it possible for the petitioner to lawfully store commercial vehicles / equipment. Currently those vehicles are stored at the northwest corner of the site and storage of firewood is along the south and west portions of the property.

STAFF ANALYSIS - RECLASSIFICATION FROM B-1 NEIGHBORHOOD BUSINESS TO B-3 GENERAL BUSINESS

1) Current Land Use:

The requested *B-3 General Business* zoning is not in conflict with adjacent land use. Open space often serves as a buffer and is compatible with most uses. The location of the PIQ on an arterial highway and its proximity to the City of Harvard make it a likely location for a business use.

2) Zoning:

The requested *B-3 General Business* zoning is not consistent with the adjacent *A-1 Agriculture* zoning districts. However, business uses are commonly seen

adjacent to agricultural uses when located on an arterial highway and in close proximity to an incorporated area.

3) 2030 Comprehensive Plan text:

The requested *B-3 General Business* zoning supports the objective to “encourage future development in the County to concentrate adjacent to existing infrastructure” by being located adjacent to an arterial highway.

4) 2030 Comprehensive Plan Future Land Use map:

The request *B-3 General Business* zoning is not consistent with the map designation of AGRICULTURAL.

5) Environmental Factors:

According to the SARA map, the PIQ does not have a high potential for aquifer contamination. The PIQ does not contain any wetlands, floodplains or floods-of-record. According to the McHenry County Soil and Water Conservation District Natural Resources Inventory report (L10-035-3619), no significant impact to natural resources was found. The Illinois Department of Natural Resources (IDNR) indicated that the proposed use is unlikely to have adverse effects on protected resources in the vicinity of the property in question.

STAFF ANALYSIS – CONDITIONAL USE REQUEST

The purpose of the Conditional Use is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

1) Current Land Use:

The requested Conditional Uses are not in conflict with adjacent land uses. Open space serves as a buffer and is compatible with most uses. Similar conditional use requests would be allowed in agricultural areas and would not conflict with the adjacent land use.

2) Zoning:

The requested conditional uses will not affect the underlying zoning, which is proposed to be *B-3 General Business* district.

3) 2030 Comprehensive Plan text:

- The requested Conditional Use to allow the storage of commercial vehicles and equipment is not addressed.
- The requested Conditional Use for a single family residence supports the objective to “promote a mix of housing types” by creating a live-work housing option.
- The requested Conditional Use to allow the production, processing and storage of firewood and mulch is not addressed.

4) 2030 Comprehensive Plan Future Land Use map:

The requested conditional uses are not consistent with the map designation of AGRICULTURAL.

5) Environmental Factors:

According to the SARA map, the PIQ does not have a high potential for aquifer contamination. The PIQ does not contain any wetlands, floodplains or floods-of-record. According to the McHenry County Soil and Water Conservation District Natural Resources Inventory report (L10-035-3619), no significant impact to natural resources was found. The Illinois Department of Natural Resources (IDNR) indicated that the proposed use is unlikely to have adverse effects on protected resources in the vicinity of the property in question.

NOTES

- The Petitioner must meet the STANDARDS FOR AMENDMENT, listed in Article 8, Section 807.2 of the *2000 McHenry County Zoning Ordinance*; and
- All requirements of Article 5, Section 502.3 STANDARDS FOR CONDITIONAL USE must be met.
- Staff will have additional comments based upon the testimony presented during the public hearing.

10. Soil and Water Conservation District Report: for further information refer to report number: **L10-035-3619**.

11. Illinois Department of Natural Resources: The consultation has been terminated for this petition.

12. SUMMARY OF TESTIMONY AT CONTINUED HEARING (April 26, 2011):

Chairman Kelly called the meeting to order. Staff indicated that they had been in contact with the McHenry County Conservation District. The Conservation District determined that the proposed use would be of minimal impact. Based on their comments, Staff also got in touch with the State regarding Emerald Ash Borer regulations. The Petitioner has since registered with the state and stated that he understands all of the state regulations with regard to Emerald Ash Borer.

Letters were also received from the Health Department. A letter from Eric Marsh stated that any off-site generated waste may be a concern to them. The second letter, from Jim Davidson, indicated that a new or additional septic may be required as well as a 100 percent replacement area.

Another question raised had been how close surrounding residences were to the subject property. Staff indicated that the nearest home was 200 feet away and the next nearest is 600 feet away to the south. With regard to surrounding businesses, Staff noted that there is a liquor business with a residence on site and also a church property to the northwest of the subject property.

Darren Stroud was called as a witness to address the Emerald Ash Borer. Mr. Stroud is a consultant and landscape designer with the tenant on the subject property. He noted that subsequent to the previous hearing, he contacted the

state and filled out a compliance agreement form. He also filled out a certificate application for a firewood importer's certificate. Mr. Stroud explained that he had done some research on the process of diagnosing diseases on trees. To clarify, Mr. Stroud stated that cut-down trees are the only thing that would be brought back to the subject property. All branches, leaves and excess mulch would be sent to S & S Nursery, approximately ¾ mile down Route 14.

13. SUMMARY OF VOTING MEETING DISCUSSION:

Chairman Kelly opened the voting portion of the meeting and stated that there were proposed conditions:

- 1) The Conditional Use shall expire ten years from the approval of the Conditional Use by the County Board.
- 2) All requirements of the McHenry County Health Department shall be met. Failure to obtain necessary health department permits and/or waivers within 18 months of the date of approval of the Conditional Use by the McHenry County Board shall result in the expiration of the Conditional Use to allow for the storage of commercial vehicles and equipment and to allow the production, processing, and storage of firewood and mulch on the property in question.
- 3) All structures or parts thereof used in relation to the business must be permitted as a commercial structure and meet the requirements of the Illinois State Plumbing Code. Failure to obtain necessary building permits within 18 months of the date of approval of the Conditional Use by the McHenry County Board shall result in the expiration of the Conditional Use to allow for the storage of commercial vehicles and equipment, and to allow the production, processing, and storage of firewood and mulch on the property in question.
- 4) Storage of landscape waste generated off-site excluding tree limbs to be processed into mulch or firewood shall be prohibited.
- 5) The concrete block material storage bins shall be limited to 6 feet in height as designated on the attached site plan received February 4, 2011. Material in said bins shall not exceed the height of the bin in which it is stored. Building permits must be obtained for said storage bins.
- 6) All materials excluding firewood shall be stored within storage bins.
- 7) Open storage of firewood shall be limited to 10 feet in height.
- 8) All employee parking, commercial vehicles storage and/or commercial equipment storage shall be limited to the site plan received on February 4, 2011.
- 9) Store hours for the business shall be limited to 7:00 a.m. to 6:00 p.m. seven days per week.
- 10) Wood splitting and wood chipping shall be limited to Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.
- 11) A fence shall be erected around the septic field to prevent storage or movement of equipment and vehicles over the field.
- 12) Signage placed on the property for the business shall comply with the McHenry County Sign Ordinance.

- 13) Landscaping screening in accordance with Section 308.3(3) of the McHenry County Zoning Ordinance shall be planted along the property line adjacent to any storage bins.
- 14) All other federal, state and local laws shall be met.

Elizabeth Scherer suggested amending the wording to condition #1 so as not to place a time limit on the single-family residence. A motion was made by Ms. Scherer to amend #1 to "The Conditional Use to allow storage of commercial vehicles and equipment and to allow the production, processing, and storage of firewood and mulch on the property in question shall expire ten years from the approval of the Conditional Use by the County Board. The Conditional Use to allow a single-family residence shall remain in perpetuity." Linnea Kooistra seconded the motion. Chairman Kelly pointed out that there would be two separate Conditional Use time limits in that instance. Dave Stone made a motion to have it read "The Conditional Use shall expire ten years from the approval of the Conditional Use by the County Board, except that the Conditional Use to allow a single-family residence shall remain in perpetuity." Elizabeth Scherer seconded the motion. The motion carried, and #1 was amended.

Ms. Kooistra was concerned about the health department requirements listed in Eric Marsh's memorandum. She made a motion to see them located within the conditions. Some Board members felt that it was beyond the scope of their duties to include those comments. Mr. Kooistra withdrew her motion.

Staff stated that the Petitioner had requested that the business hours be extended to 8:00 p.m. instead of 6:00 p.m. Jay Filler also pointed out that it is not a store, so Ms. Kooistra suggested changing "Store hours" to "Operating hours". Mr. Filler agreed with the wording change. Chairman Kelly noted that limiting the hours of operation would also limit the storage, which occurs 24 hours a day. Dave Stone made a motion to delete #9. Charles Eldredge seconded the motion. The Board voted in favor of the change, and #9 was deleted.

Mr. Eldredge made a motion to approve the 13 proposed conditions, as amended. Vicki Gartner seconded the motion. The conditions were approved by a vote of 7-0.

Ed Haerter made a motion to split the vote to vote on the reclassification with the Conditional Use for a residence separately from the Conditional Use for the storage and business. Dave Stone seconded the motion. The motion failed.

Mr. Stone made a motion to recommend approval of the entire request, subject to the approved conditions. Mr. Eldredge seconded the motion. Mr. Stone felt that the request meets requirements. He also noted that the concern about Ash Borers is not a big concern due to the fact that there are not many ash trees surrounding the property. Ms. Kooistra explained that she was still concerned about the potential future uses of the property if it is zoned B-3. Staff reminded the Board that some possibly objectionable uses such as restaurants or retail sales would require a minimum 12,000 square foot building, which may be difficult to place on a property of this size. Ms. Kooistra noted that she didn't have any specific problems with the specific request on this property. Vicki Gartner stated that

these types of businesses usually are operated on agricultural property, but she is in favor of this location because it is already business zoned. Mr. Haerter stated that the property is full of material and an eyesore. He did not feel that the subject property is a good location for B-3 zoning. Elizabeth Scherer agreed and was opposed to the request. Mr. Eldredge stated that there were not any neighbors close enough to be impacted by the use. He does feel it is somewhat of an eyesore, but he does not feel it would be any more so than it has been for the past 50 years. Chairman Kelly agreed and felt that the request was a good use of the property. He also noted he did not feel that the change in zoning would begin a new trend as it is already a business district.

14. **Facts that support recommending *approval* of the request:**

- 1.) The Standards for Amendment, listed in Article 8, under Section 807.2 of the McHenry County Zoning Ordinance, have been met to the satisfaction of the some of the Zoning Board of Appeals members.
- 2.) The Standards for Conditional Use, listed in Article 5, under Section 502.3 of the McHenry County Zoning Ordinance, have been met to the satisfaction of some of the Zoning Board of Appeals members.
- 3.) The property has been used for various business uses for at least 50 years.

15. **Facts that support recommending *denial* of the request:**

- 1.) The property is surrounded by agricultural land.
- 2.) Some Board members indicated that the property was an eyesore in this location.

16. **Motion:** Made by David Stone, seconded by Charles Eldredge to recommend approval for reclassification from the "B-1" Neighborhood Business District to the "B-3" General Business District with a Conditional Use Permit to allow for the storage of commercial vehicles and equipment, to allow a single family residence, and to allow the production, processing and storage of firewood and mulch on the property in question, subject to the following conditions:

- 1) The Conditional Use shall expire ten years from the approval of the Conditional Use by the County Board, except that the Conditional Use to allow a single-family residence shall remain in perpetuity.
- 2) All requirements of the McHenry County Health Department shall be met. Failure to obtain necessary health department permits and/or waivers within 18 months of the date of approval of the Conditional Use by the McHenry County Board shall result in the expiration of the Conditional Use to allow for the storage of commercial vehicles and equipment and to allow the production, processing, and storage of firewood and mulch on the property in question.
- 3) All structures or parts thereof used in relation to the business must be permitted as a commercial structure and meet the requirements of the Illinois State Plumbing Code. Failure to obtain necessary building permits within 18 months of the date of approval of the Conditional Use by the McHenry County Board shall result in the expiration of the Conditional Use to allow for the storage of commercial vehicles and

equipment, and to allow the production, processing, and storage of firewood and mulch on the property in question.

- 4) Storage of landscape waste generated off-site excluding tree limbs to be processed into mulch or firewood shall be prohibited.
- 5) The concrete block material storage bins shall be limited to 6 feet in height as designated on the attached site plan received February 4, 2011. Material in said bins shall not exceed the height of the bin in which it is stored. Building permits must be obtained for said storage bins.
- 6) All materials excluding firewood shall be stored within storage bins.
- 7) Open storage of firewood shall be limited to 10 feet in height.
- 8) All employee parking, commercial vehicles storage and/or commercial equipment storage shall be limited to the site plan received on February 4, 2011.
- 9) Wood splitting and wood chipping shall be limited to Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m.
- 10) A fence shall be erected around the septic field to prevent storage or movement of equipment and vehicles over the field.
- 11) Signage placed on the property for the business shall comply with the McHenry County Sign Ordinance.
- 12) Landscaping screening in accordance with Section 308.3(3) of the McHenry County Zoning Ordinance shall be planted along the property line adjacent to any storage bins.
- 13) All other federal, state and local laws shall be met.

17. Vote: 4 - AYES; 3 - NAYS; 0 - ABSTAIN

Ed Haerter - Nay
Elizabeth Scherer - Nay
Linnea Kooistra - Nay
David Stone - Aye
Vicki Gartner - Aye
Charles Eldredge - Aye
Rich Kelly - Aye

GOES TO COUNTY BOARD WITH ZBA NO RECOMMENDATION

1 CHAIRMAN KELLY: There's a motion for a B-3
2 with a Conditional Use for residence vote and
3 then a vote on the storage separately?

4 MR. HAERTER: Correct.

5 CHAIRMAN KELLY: Is there a second to that
6 motion?

7 MS. GARTNER: There was by Dave.

8 MR. STONE: Yes.

9 CHAIRMAN KELLY: Dave, okay. All those in
10 favor of that motion say "aye." Opposed?

11 (Voice vote taken.)

12 MS. KOOISTRA: I voted no because of the way
13 I know what goes on in B-1.

14 CHAIRMAN KELLY: Then that motion would
15 fail. So it would be one vote overall.

16 At this time, then, I take a motion
17 in regard to the proposed Conditional Uses,
18 reclassification to B-3 and also to the B-3 with
19 the two Conditional Uses on it.

20 MR. STONE: I'll make the motion.

21 CHAIRMAN KELLY: Motion by Mr. Stone. Is
22 there a second?

23 MR. ELDREDGE: Second.

24 CHAIRMAN KELLY: Discussion, Mr. Stone?

1 MR. STONE: Yes. I'm inclined to vote in
2 favor of this. I realize there's some concern
3 about the B-1 to the B-3 that's going to allow
4 all these other potential uses, but to be honest
5 with you, I don't think that there's many B-3
6 uses that would actually fall onto this property.
7 I mean it's out in the middle of nowhere. The
8 only time -- I'm not even sure I see it when I go
9 to play golf at Plumb Tree Golf Course. That's
10 close to there.

11 It hasn't -- the last thing that I
12 knew that was there was a trailer place. In
13 fact, I bought a popup trailer off that property
14 at one point. It's been a used car lot.

15 I think it complies with the
16 standards. They have this thing about the Ash
17 Borers which it's sort of been diluted because
18 there aren't many ash trees surrounding this
19 property. The use that's proposed has some
20 conditions for guarding against the Ash Borers.
21 I can't conceive of how this moving from a B-1 to
22 B-3 is going to create any problems with the
23 values of surrounding properties, affect the uses
24 around other than the objection that's raised by

1 the township that says well, when you make it B-3
2 you're creating all these potential uses. Well,
3 I think we have to look at the practicalities of
4 life. And I can't conceive of this property
5 ending up much other use than it's getting right
6 now. It's got a residence on it. I think it
7 complies with all the requirements it needs to
8 comply with in order to vote in -- to recommend
9 it to the County Board.

10 CHAIRMAN KELLY: Thank you. Ms. Kooistra?

11 MS. KOOISTRA: Can I ask a question of staff
12 in this time frame?

13 CHAIRMAN KELLY: Go ahead.

14 MS. KOOISTRA: You know, I'm struggling with
15 this B-3 zoning. Would all these conditional
16 uses be allowed in A-1?

17 MS. KOLNER: All the conditional uses would
18 be allowed in A-1. They would not -- excuse me.

19 MS. KOOISTRA: You would not need the one
20 for the residence.

21 MS. KOLNER: Well, they would technically
22 because the requirements for A-1 is 40 acres.
23 Are you saying A-1 or B-1, to clarify?

24 MS. KOOISTRA: Oh, yeah. I didn't think

1 about the acreage requirement. I was thinking of
2 A-1 use.

3 MS. KOLNER: Okay. Yes, if they did choose
4 A-1 there would be all the variations for the
5 size of the lot and things like that. If it
6 remained B-1 they could still ask for the
7 Conditional Use for the production of storage of
8 firewood and mulch as well as the residence, but
9 they would not be able to request the storage of
10 commercial vehicles and equipment.

11 So that is the main reason why
12 they're proposing the reclassification in
13 addition to the conditional uses.

14 MS. KOOISTRA: Okay. All right. I have
15 some real problems with making this a B-3. I
16 also realize the conundrum kind of we're in right
17 here with this property.

18 They want to operate firewood and
19 mulch. There is a home on this property. It's
20 been used as a business use for 50 years. The
21 problem is the storage of commercial vehicles and
22 equipment making this that they have to ask for
23 B-3.

24 I don't know that I'm

1 convinced -- well, let me ask you, Kim -- sorry
2 for all this delay -- could they have the
3 commercial vehicles for the operation of this
4 firewood and mulch business? Would that be
5 allowed in a B-1?

6 MS. KOLNER: No, it would have to be
7 separate as per my understanding because the only
8 other use that would be able to have commercial
9 vehicles would be a contracting yard. And I
10 don't believe that this qualifies as a
11 contracting yard, which is why they would need to
12 ask for the storage of commercial vehicles
13 separate. Yeah, contracting and building trades.
14 And it's not really a building trade.

15 MS. KOOISTRA: Okay.

16 MS. KOLNER: I do want to clarify, though,
17 with some of the concerns with B-3, certainly not
18 all of the uses but some of the uses are limited
19 by the square footage of the building. So
20 department stores, some retail, restaurants, if
21 it's over a 12,000 square feet building then it
22 would be in B-3. Because of it only being a
23 one-acre lot, it may be difficult to fit a
24 building of that size on the property. So those

1 uses then would not be allowed on this particular
2 property because of those limitations. So then
3 that would eliminate some of the uses on the use
4 chart that would normally be allowed in B-3.

5 MS. KOOISTRA: Then when you add in the
6 septic and the replacement septic that's, again,
7 limiting the size of the building and size of the
8 use?

9 MS. KOLNER: Correct.

10 MS. KOOISTRA: Okay. So I guess I'm still
11 listening to everyone. Based on those comments
12 from Kim as the operation of what could be, the
13 only concern then I would have would be a map
14 amendment showing that there's a B-3 here and how
15 that would affect zoning in the future. But as
16 far as the use on this property, I really don't
17 have any problem with it.

18 CHAIRMAN KELLY: Thank you. Ms. Gartner.

19 MS. GARTNER: Well, this already is, you
20 know, a business zoned property. And the request
21 for the B-3 and the Conditional Uses to me seems
22 to just kind of pull together all the little
23 messy details of this request to make it all
24 work, something that would be compatible with our

1 ordinances and with what this business is doing.

2 This little piece of property has
3 had personality changes over the years. And this
4 is probably just another personality change for
5 however long. And being that it's already a
6 business property and is requesting a B-3
7 business property, I'm inclined to be in favor of
8 it because these types of uses seem to always
9 fall on agriculture land, which is -- there's
10 something distasteful about that. This is a
11 business and they're looking for a business
12 zoning again for this with a Conditional Use. I
13 would be in favor.

14 CHAIRMAN KELLY: Thank you. Mr. Haerter?

15 MR. HAERTER: I think the Petitioner muddled
16 the water here by asking for the B-3 to allow the
17 Conditional Use. It's my opinion that if this
18 just came in as a B-3 to this Board we probably
19 would have all been opposed to it. That's just
20 my gut feeling.

21 This is out in the middle of
22 nowhere. It's at least a couple miles from
23 Harvard. It's been there for years, as Mr. Stone
24 said. And in my opinion it's always been a mess.

1 It's been a car lot that I have seen. It's been
2 abandoned. There's -- really it shouldn't have
3 been there in the first place.

4 In fact, if there were a B-1
5 request coming in for ag I'd say no. That's what
6 it is already because of the nature of the
7 neighborhood.

8 You've only got exactly one acre
9 here according to the site plan. Subtract the
10 house out of that or the building and now you've
11 got much less of an acre, and an acre is a
12 minimum for B-3.

13 You go by there on the weekend when
14 everything's parked and all the wood, it is
15 totally chock-full. There is not one bit of room
16 on that spot. It's not very eye appealing at
17 all. And I just think there's -- on the other
18 side of this there's too many intense uses
19 allowed in B-3 for this request. You could fill
20 it with storage buildings; many other
21 things -- and that would require septic for the
22 house. So you could put quite a bit of stuff on
23 here that would not, in my opinion, be good in
24 this neighborhood. I would be opposed to this.

1 CHAIRMAN KELLY: Mrs. Scherer?

2 MS. SCHERER: Mr. Haerter has very well
3 summed up all my thoughts with regard to this.
4 Dunham Township is opposing this. This is not a
5 location for a B-3. 80 percent of the property
6 is covered by buildings and cord wood. I just
7 have to agree with the residents in the area that
8 were opposing this.

9 CHAIRMAN KELLY: Thank you. Mr. Eldredge.

10 MR. ELDREDGE: I thinks there's no question
11 that if this had been zoned agricultural and was
12 coming in for business use that the Board would
13 be unanimously opposed. But I'm strongly
14 influenced by the fact that it has been an
15 unattractive business use for about my lifetime.
16 And the other thing that has influenced me very
17 substantially is in spite of getting notice, the
18 conservation district made no comment. And then
19 when we asked them specifically to please
20 comment, they still made sort of a half comment.
21 And the half comment was that it had no impact on
22 them.

23 There are no neighbors close enough
24 to be impacted on it. I think it's a little bit

1 of an eyesore driving by. But frankly, I think
2 even with the most intense use proposed here it
3 will not be a greater eyesore than it has been
4 for the most of the last half century.

5 So the lack of neighbors opposing
6 it, the other uses of B-3 that are possible, I
7 think are relatively unlikely from a practical
8 commercial aspect. I'm conflicted but I'm going
9 to vote in favor of this.

10 MS. SCHERER: I would like to ask how you
11 think changing the zoning is going to change
12 what's going on the site, or how it looks, or in
13 the future how it's used? I think changing the
14 zoning may cause you to see that forever, just
15 the way this is requested, and what would be
16 allowed on this site. I think what you're doing
17 is in the future making certain that it looks
18 just the way it does today, whether it's used for
19 something else or not because it's a small lot.
20 And that really was something that was -- you
21 know, I don't think changing the zoning is going
22 to help anything.

23 MR. ELDREDGE: Well, in my view if we fail
24 to change the zoning it isn't going to benefit it

1 in any way either.

2 MR. STONE: We're not a beautification
3 committee.

4 CHAIRMAN KELLY: I agree with what
5 Mr. Eldredge said about this property. It has
6 been a business use for a long time. It's only
7 zoned B-1 right now based on the size of the
8 property. And the difference between the B-3's
9 and B-1's are really marginal except for where
10 you have enough property to build a department
11 store, one of the major uses for B-3.

12 I think, you know, the only thing
13 this property -- if we're going to tell people
14 that they can't build these storage and
15 commercial equipment and vehicles in A-1 we have
16 to let them use some of these properties that are
17 already zoned for business uses or other uses
18 around here, too.

19 You can't -- I don't see that you
20 can say that you can't store this stuff anywhere.
21 That's what we're coming down to at this point;
22 no matter what zoning it is, that the people come
23 in asking for a conditional use use on we're
24 fighting with them over the abuse of property.

1 So I think that is a good use for
2 this property. And I remember it as a car
3 dealership and still could be a car dealership
4 tomorrow as B-1. And that's probably the most
5 intensive use that they could put on a B-3 on one
6 acre.

7 So I don't think we're really
8 changing as much as it appears just by moving
9 from B-1 to B-3. I find it very similar to where
10 we moved the B-2 up in Hebron from B-2 to B-1
11 zoning so they could put in a furniture store.
12 It's not creating any kind of trend because it's
13 already a business district. I'm in favor of the
14 petition.

15 I'll call for the vote.

16 Mr. Haerter?

17 MR. HAERTER: No.

18 CHAIRMAN KELLY: Mrs. Scherer?

19 MS. SCHERER: No.

20 CHAIRMAN KELLY: Ms. Kooistra?

21 MS. KOOISTRA: I'm going to vote no so the
22 County Board can decide on this.

23 CHAIRMAN KELLY: Mr. Stone?

24 MR. STONE: Yes.

1 CHAIRMAN KELLY: Ms. Gartner?

2 MS. GARTNER: Yes.

3 CHAIRMAN KELLY: Mr. Eldredge?

4 MR. ELDREDGE: Yes.

5 CHAIRMAN KELLY: And I'll vote yes. It will
6 go to the County Board with a four-to-three vote
7 recommending approval, which is no
8 recommendation.

9 (Which were all the
10 proceedings had in
11 said matter on said
12 date.)

13

14

15

16

17

18

19

20

21

22

23

24

**IN THE MATTER OF THE APPLICATION OF)
Lamon J. Edmonds, as Trustee u/t/a dated 11/24/1992,) No. 10-29
and known as The Edmonds Family Revocable Trust)
No. 92-1, for Amendment to the Zoning Ordinance of)
McHenry County, Illinois.)**

ORDINANCE

WHEREAS, your Petitioner, Lamon J. Edmonds, as Trustee u/t/a dated 11/24/1992, and known as The Edmonds Family Revocable Trust No. 92-1, have filed a petition with the McHenry County Zoning Board of Appeals requesting a reclassification of the subject property from "B-1" Business District, and Petitioners wish to reclassify the subject property to "B-3" Business District as it relates to the McHenry County Zoning Ordinance, and of such Ordinance as amended, as it relates to the real property more fully described as:

Part of the Southeast Quarter of the Southeast Quarter of Section 12, Township 45 North, Range 5 East of the Third Principal Meridian, in McHenry County, Illinois lying on the Northeasterly side of the Highway U.S. Route 14 described as follows: Commencing in the South line of said Section 12 at a point 747.35 feet West from the Southeast corner thereof; thence Northwesterly being on a line forming an angle of 42 degrees and 49 minutes to the right with a prolongation of the last described line and being along the Northeasterly right-of-way of Highway U.S. 14 for a distance of 577.5 feet to a point, for a Place of Beginning; thence Northwesterly being on a continuation of the last described line, 170.86 feet; thence Northerly on a line forming an angle of 48 degrees and 16 minutes to the right with a prolongation of the last described line, 234.5 feet; thence Southeasterly on a line parallel with said Highway, U.S. 14 for a distance of 326.96 feet; thence Southwesterly at right angles to the last described line, 175 feet to the Place of Beginning, in McHenry County, Illinois.

Permanent Property Index No: 06-12-400-006
Commonly known as: 20314 S. Route 14, Harvard, Illinois 60033

WHEREAS, the Petition requests a reclassification of the subject property from its present classification which is B-1 Business District to B-3 Business District; and

WHEREAS, the Petition also requests the following Conditional Use Permits:

- a. A conditional use permit be granted to allow for the storage of commercial equipment and vehicles on the property in question
- b. A conditional use permit be granted to allow a single family residence on the property in question.
- c. A conditional use permit be granted to allow the production, processing, and storage of firewood and mulch on the property in question.

WHEREAS, the subject property consists of approximately 1.00 acre in which reclassification is contemplated; and

WHEREAS, a hearing on said Petition was held before the Zoning Board of Appeals of McHenry County in the manner and in the form as prescribed by Ordinance and Statute; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of exhibits advanced thereat, the Zoning Board of Appeals of McHenry County had no recommendation by a vote of 4 ayes and 3 nays for the reclassification of the subject property from its present classification which is "B-1" Business District to "B-3" Business District; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of exhibits advanced thereat, the Zoning Board of Appeals of McHenry County had no recommendation by a vote of 4 ayes and 3 nays for the granting of the Conditional Use Permit to allow the storage of commercial equipment and vehicles on the premises; to allow a single-family residence on the premise; and to allow the production, processing and storage of firewood and mulch on the property with the following conditions:

1. The conditional use shall expire ten (10) years from the date of approval of the conditional use by the McHenry County Board except that conditional use to allow the single family residence shall remain in perpetuity;
2. All requirements of the McHenry County Health Department shall be met. Failure to obtain necessary Health Department Permits and/or waivers within 18 months of the date of approval of the Conditional Use by the McHenry County Board shall result in the expiration of the Conditional Uses to allow the storage of commercial vehicles and equipment and to allow the production, processing and storage of firewood and mulch on the property in question.
3. All structures or parts thereof used in relation to the business must be permitted as a commercial structure and meet the requirements of the Illinois State Plumbing Code. Failure to obtain necessary building permits within 18 months of the date of approval of the Conditional Use by the McHenry County Board shall result in the expiration of the Conditional Use to allow the storage of commercial vehicles and equipment and to allow the production, processing and storage of firewood and mulch on the property in question.
4. Storage of landscape waste generated off-site, excluding tree limbs to be processed into mulch or firewood, shall be prohibited.
5. The concrete block material storage bins shall be limited to 6 feet in height as designated on the site plan received February 4, 2011. Material in said bins shall not exceed the height of the bin in which it is stored. Building permits must be obtained for said storage bins.
6. All material, excluding firewood, shall be stored within storage bins.
7. Open storage of firewood shall be limited to 10 feet in height.
8. All employee parking, commercial vehicle storage and/or commercial equipment storage shall be limited to the site plan received February 4, 2011.
9. Wood splitting and wood chipping shall be limited to Monday through Friday, between the hours of 9:00 a.m., and 5:00 p.m.

10. A fence shall be erected around the septic field to prevent storage or movement of equipment and vehicles over the field.
11. Signage placed on the property for the business shall comply with the McHenry County Sign Ordinance.
12. Landscape screening shall be provided and maintained in accordance with Section 308.3(3) of the 2000 McHenry County Zoning Ordinance, and shall be planted along the property line adjacent to any storage bins.
13. All other federal, state and local laws shall be met; and

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Zoning Board of Appeals of McHenry County; and

WHEREAS, the McHenry County Board has determined that the requirements for reclassification and conditional use of the subject property have been met;

NOW THEREFORE BE IT ORDAINED that the Zoning Ordinance and the Zoning maps of McHenry County, and such Ordinances and such maps as amended, be and the same are hereby amended to allow the reclassification of the subject property from its present classification of "B-1" Business to "B-3" Business District; and

BE IT FURTHER ORDAINED that the Zoning Ordinance and Zoning maps of McHenry County, and such Ordinances and such maps as amended, be and the same are hereby amended to allow the issuance of a Conditional Use Permit to allow the storage of commercial equipment and vehicles on the premises; to allow a single-family residence on the premise; and to allow the production, processing and storage of firewood and mulch on the property with the following conditions:

1. The conditional use shall expire ten (10) years from the date of approval of the conditional use by the McHenry County Board except that conditional use to allow the single family residence shall remain in perpetuity;
2. All requirements of the McHenry County Health Department shall be met. Failure to obtain necessary Health Department Permits and/or waivers within 18 months of the date of approval of the Conditional Use by the McHenry County Board shall result in the expiration of the Conditional Uses to allow the storage of commercial vehicles and equipment and to allow the production, processing and storage of firewood and mulch on the property in question.
3. All structures or parts thereof used in relation to the business must be permitted as a commercial structure and meet the requirements of the Illinois State Plumbing Code. Failure to obtain necessary building permits within 18 months of the date of approval of the Conditional Use by the McHenry County Board shall result in the expiration of the Conditional Use to allow the storage of commercial vehicles and equipment and to allow the production, processing and storage of firewood and mulch on the property in question.

4. Storage of landscape waste generated off-site, excluding tree limbs to be processed into mulch or firewood, shall be prohibited.
5. The concrete block material storage bins shall be limited to 6 feet in height as designated on the site plan received February 4, 2011. Material in said bins shall not exceed the height of the bin in which it is stored. Building permits must be obtained for said storage bins.
6. All material, excluding firewood, shall be stored within storage bins.
7. Open storage of firewood shall be limited to 10 feet in height.
8. All employee parking, commercial vehicle storage and/or commercial equipment storage shall be limited to the site plan received February 4, 2011.
9. Wood splitting and wood chipping shall be limited to Monday through Friday, between the hours of 9:00 a.m., and 5:00 p.m.
10. A fence shall be erected around the septic field to prevent storage or movement of equipment and vehicles over the field.
11. Signage placed on the property for the business shall comply with the McHenry County Sign Ordinance.
12. Landscape screening shall be provided and maintained in accordance with Section 308.3(3) of the 2000 McHenry County Zoning Ordinance, and shall be planted along the property line adjacent to any storage bins.
13. All other federal, state and local laws shall be met.

If any part, sentence, clause or provision of this Ordinance is adjudged to be unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED: This _____ day of _____, 2011.

 Chairperson, McHenry County Board
 McHenry County, Illinois

ATTEST:

BY: _____
 County Clerk

NUMBER VOTING AYE: _____
 NUMBER VOTING NAY: _____
 NUMBER ABSTAINING: _____
 NUMBER ABSENT: _____

Staff Report for the McHenry County Zoning Board of Appeals

Petition: # 10-29

Hearing Date: December 2, 2010

Applicant: Lamon J. Edmonds as Trustee of the Edmond Family Revocable Trust No. 92-1, owner of record.

Request: Reclassification of the subject property from "B-1" Neighborhood Business to "B-3" General Business and a Conditional Use to allow for the storage of commercial vehicles and equipment, to allow a single-family residence, and to allow the production, processing, and storage of firewood and mulch on the PIQ.

Location: The Property in Question (PIQ) is approximately 1 acre in area and is located on the northeast corner of Windy Hill Road and US Route 14, in Dunham Township.

Address: 20314 S. Route 14, Harvard, IL, 60033

PIN: 06-12-400-006

Aerial Map



Elevation

(feet above sea level)

— 10-foot contours

— 2-foot contours



1 inch equals 100 feet



Staff Report for the McHenry County Zoning Board of Appeals

STAFF COMMENTS

The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

Request for Reclassification from B-1 Neighborhood Business to B-3 General Business

This request for rezoning to *B-3 General Business* is compatible with the surrounding land use of open space, as it serves as a buffer. The request is not consistent with the adjacent *A-1 Agriculture* zoning. However, its location adjacent to an arterial highway, its proximity near the City of Harvard and the long-standing business use at this site make for an appropriate location for this requested use. The request is consistent with the text of the *2030 Plan's* objective to encourage development near existing infrastructure. However it is not consistent with the *2030 Plan* map designation of AGRICULTURAL.

Staff would recommend approval of the reclassification.

Conditional Use Request

These Conditional Use requests are compatible with the surrounding land use of open space, as it serves as a buffer. The requested conditional use will not affect the underlying zoning, which is proposed to be *B-3 General Business* district. The 2030 Plan text is mixed regarding the proposals. The conditional use request for a single-family residence would be creating an opportunity for a live-work housing unit. However the text is neutral regarding the conditional uses for storage of commercial vehicles and equipment and the production, processing and storage of firewood and mulch. The requested conditional uses are not consistent with the map designation of AGRICULTURAL.

The petitioner must provide evidence in the hearing they the proposed uses will meet the requirements set forth in the *2000 McHenry County Zoning Ordinance* for a Conditional Use.

BACKGROUND

In 1949 the Property in Question (PIQ) was rezoned from the *F-Farm* district to its current zoning district, *B-1 Neighborhood Business* by Petition #407. The PIQ is approximately 1 acre in area (PIN 06-12-400-006). Structures on the site include a one-story frame & brick building, a metal shed and a metal-clad trailer. A billboard sign is located on the southern most corner of the site. There is a request-for-service (RFS) currently open for unlawful storage of commercial vehicles and equipment on the property in question. The granting of the requested conditional use by the McHenry County Board would make it possible for the petitioner to lawfully store commercial vehicles / equipment. Currently those vehicles are stored at the northwest corner of the site and storage of firewood is along the south and west portions of the property.

STAFF ANALYSIS – RECLASSIFICATION FROM B-1 NEIGHBORHOOD BUSINESS TO B-3 GENERAL BUSINESS

1) Current Land Use:

The requested *B-3 General Business* zoning is not in conflict with adjacent land use. Open space often serves as a buffer and is compatible with most uses. The location of the PIQ on an arterial highway and its proximity to the City of Harvard make it a likely location for a business use.

2) Zoning:

The requested *B-3 General Business* zoning is not consistent with the adjacent *A-1 Agriculture* zoning districts. However, business uses are commonly seen adjacent to agricultural uses when located on an arterial highway and in close proximity to an incorporated area.

3) 2030 Comprehensive Plan text:

The requested *B-3 General Business* zoning supports the objective to “encourage future development in the County to concentrate adjacent to existing infrastructure” by being located adjacent to an arterial highway.

4) 2030 Comprehensive Plan Future Land Use map:

The request *B-3 General Business* zoning is not consistent with the map designation of AGRICULTURAL.

5) Environmental Factors:

According to the SARA map, the PIQ does not have a high potential for aquifer contamination. The PIQ does not contain any wetlands, floodplains or floods-of-record. According to the McHenry County Soil and Water Conservation District Natural Resources Inventory report (L10-035-3619), no significant impact to natural resources was found. The

Illinois Department of Natural Resources (IDNR) indicated that the proposed use is unlikely to have adverse effects on protected resources in the vicinity of the property in question.

STAFF ANALYSIS – CONDITIONAL USE REQUEST

The purpose of the Conditional Use is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

1) Current Land Use:

The requested Conditional Uses are not in conflict with adjacent land uses. Open space serves as a buffer and is compatible with most uses. Similar conditional use requests would be allowed in agricultural areas and would not conflict with the adjacent land use.

2) Zoning:

The requested conditional uses will not affect the underlying zoning, which is proposed to be *B-3 General Business* district.

3) 2030 Comprehensive Plan text:

- The requested Conditional Use to allow the storage of commercial vehicles and equipment is not addressed.
- The requested Conditional Use for a single family residence supports the objective to “promote a mix of housing types” by creating a live-work housing option.
- The requested Conditional Use to allow the production, processing and storage of firewood and mulch is not addressed.

4) 2030 Comprehensive Plan Future Land Use map:

The requested conditional uses are not consistent with the map designation of AGRICULTURAL.

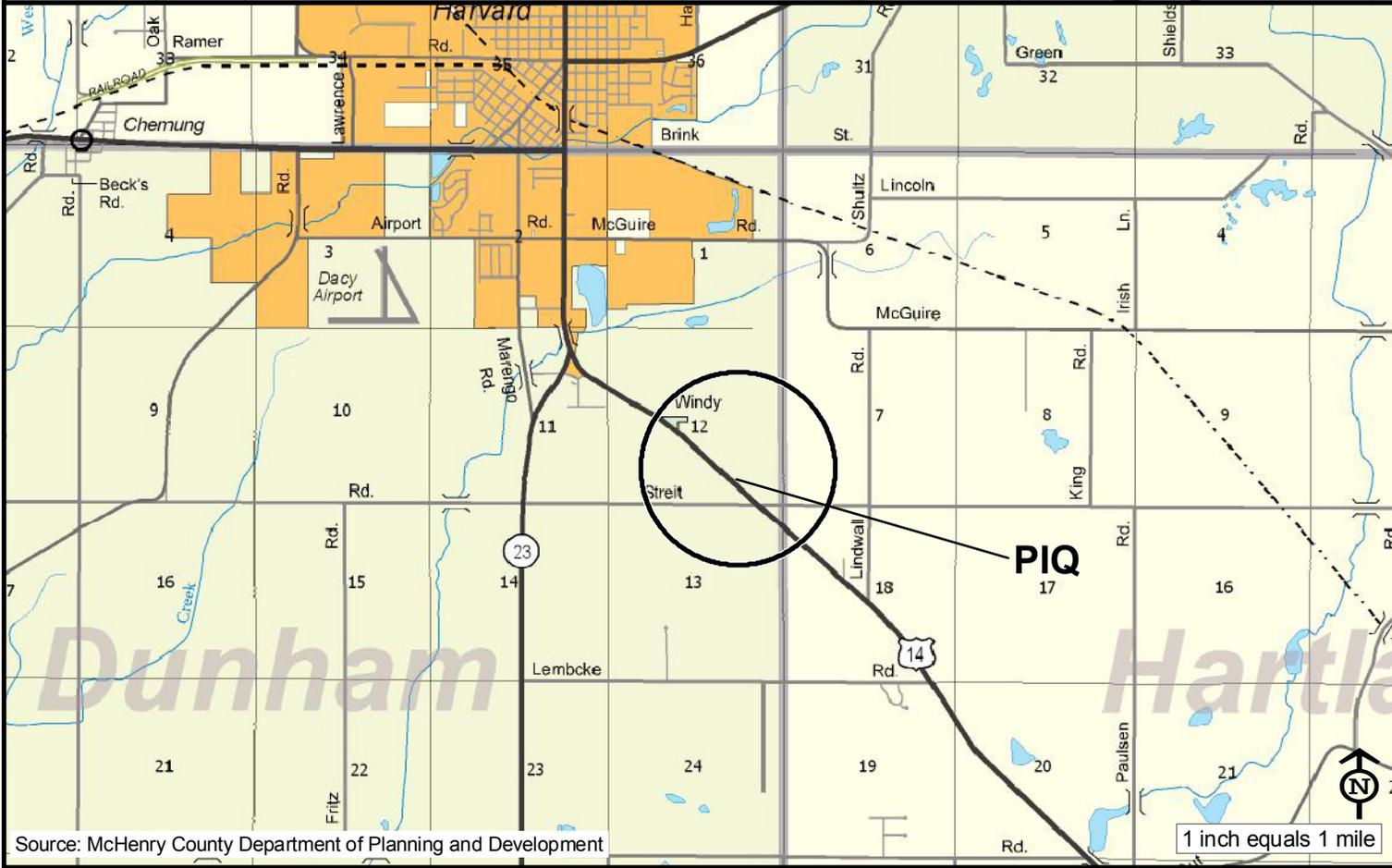
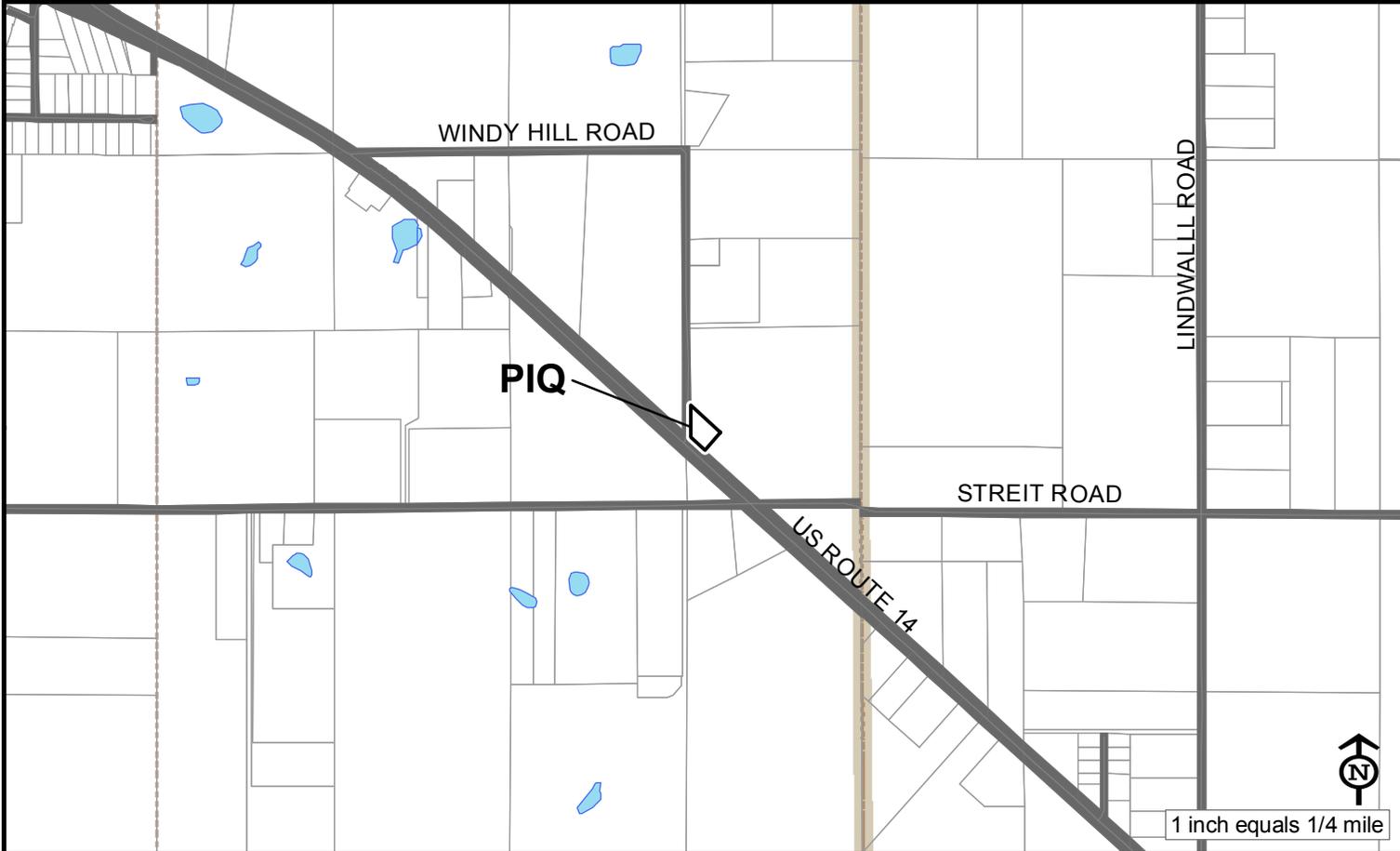
5) Environmental Factors:

According to the SARA map, the PIQ does not have a high potential for aquifer contamination. The PIQ does not contain any wetlands, floodplains or floods-of-record. According to the McHenry County Soil and Water Conservation District Natural Resources Inventory report (L10-035-3619), no significant impact to natural resources was found. The Illinois Department of Natural Resources (IDNR) indicated that the proposed use is unlikely to have adverse effects on protected resources in the vicinity of the property in question.

NOTES

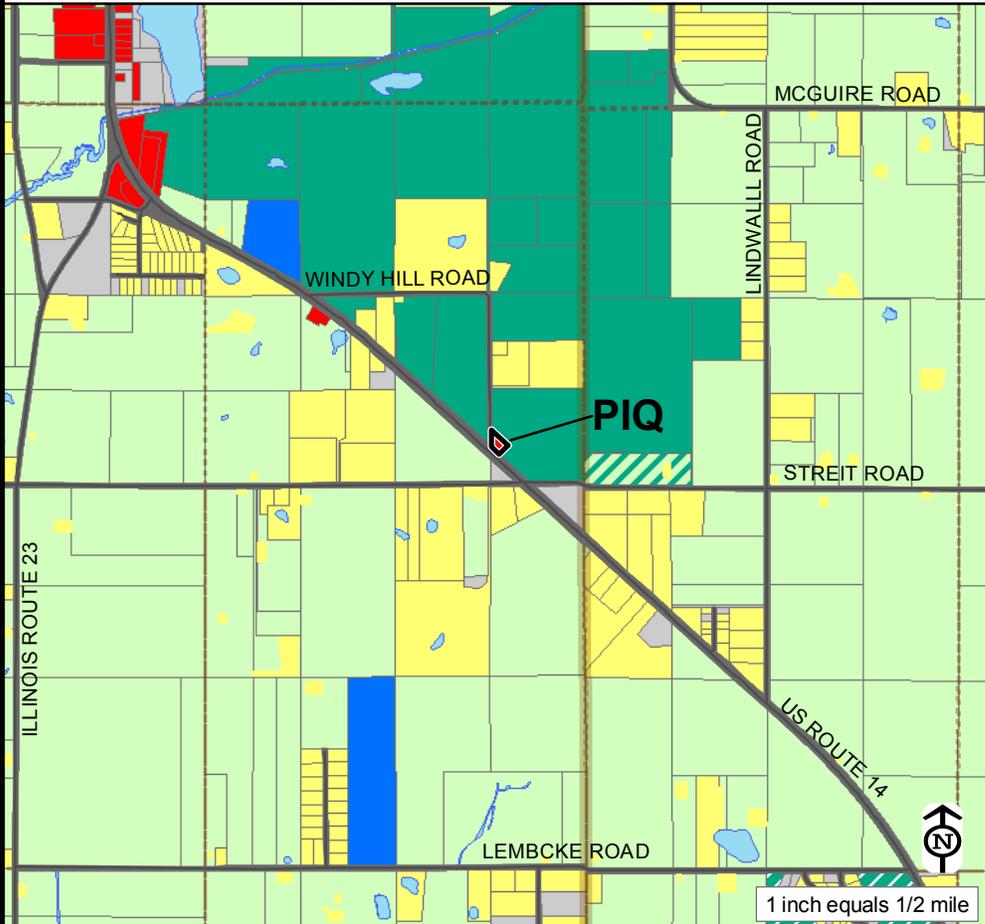
- The Petitioner must meet the STANDARDS FOR AMENDMENT, listed in Article 8, Section 807.2 of the *2000 McHenry County Zoning Ordinance*; and
- All requirements of Article 5, Section 502.3 STANDARDS FOR CONDITIONAL USE must be met.
- Staff will have additional comments based upon the testimony presented during the public hearing.

Report prepared November 22, 2010 by Kimberly S. Kolner, Associate Planner
McHenry County Department of Planning & Development



Source: McHenry County Department of Planning and Development

Current Land Use Map



Current Land Use of the PIQ

Commercial

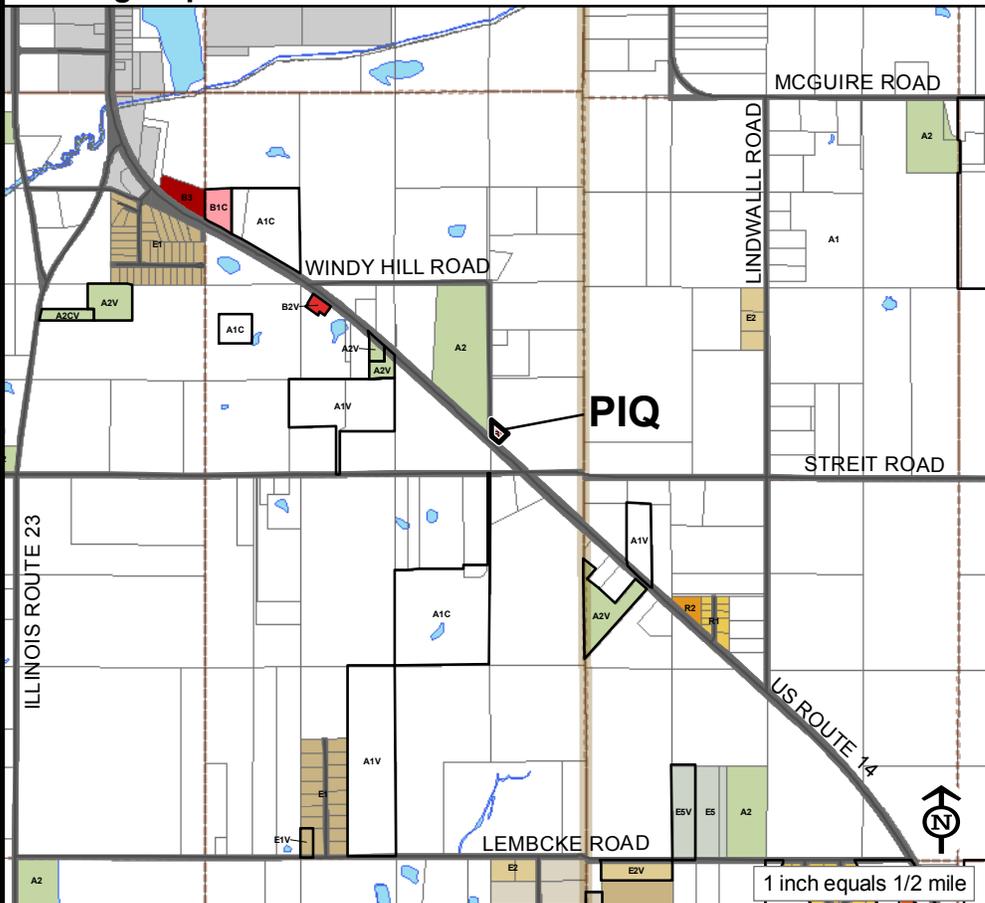
Land Use Adjacent to the PIQ

- North: *Open Space*
- South: *Open Space and Vacant*
- East: *Open Space*
- West: *Open Space and Agriculture*



1 inch equals 1/2 mile

Zoning Map



Current Zoning / PIQ:

B-1 Neighborhood Business

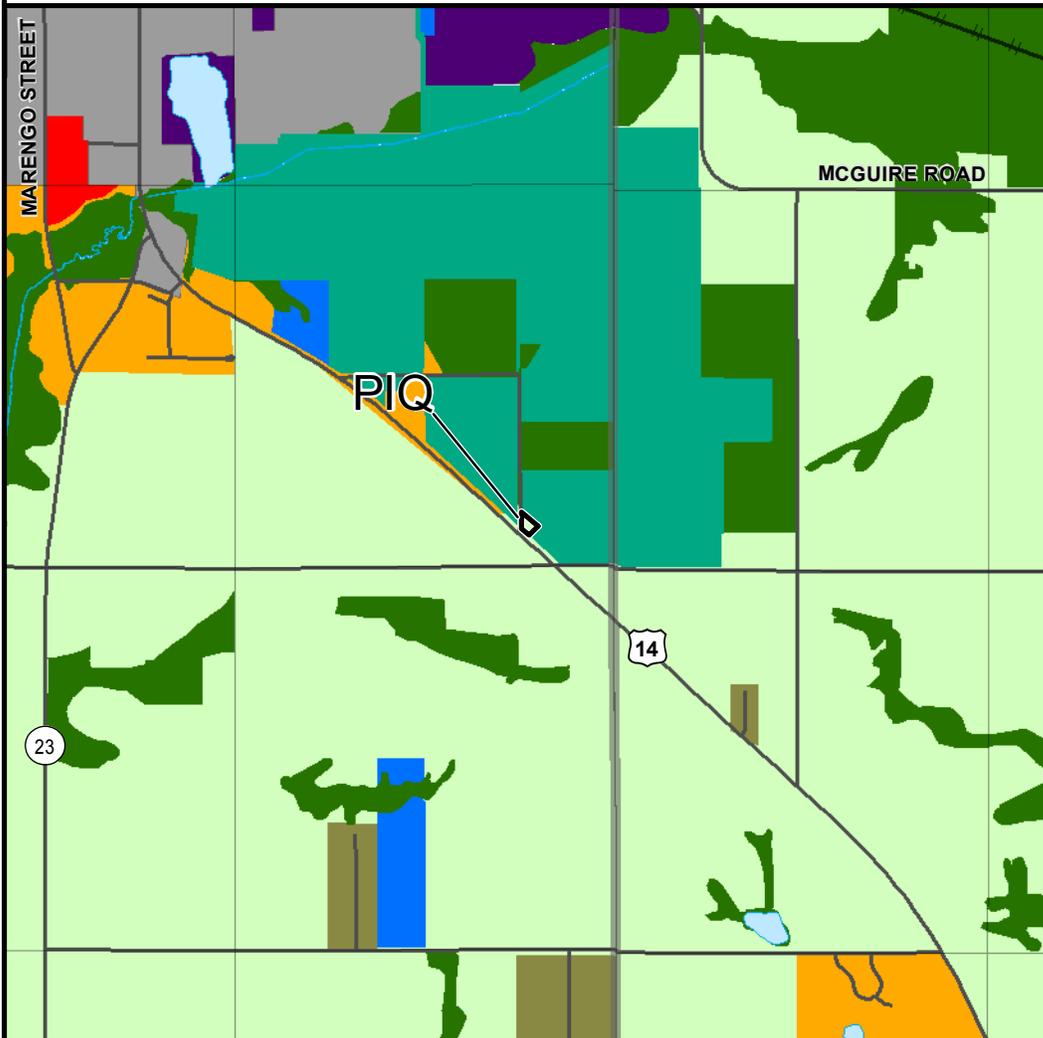
Adjacent Zoning

- North: A-1 Agriculture
- South: A-1 Agriculture
- East: A-1 Agriculture
- West: A-1 Agriculture and A-2 Agriculture



1 inch equals 1/2 mile

McHenry County 2030 Comprehensive Plan Future Land Use Map



Future Land Use Map Designation AGRICULTURAL

- Agricultural
 - Open Space
 - Environmentally Sensitive Area
 - Estate
 - Isolated Estate
 - Residential
 - Isolated Residential
 - Retail
 - Mixed Use
 - Office, Research, Industrial
 - Gov't, Institutional, Utilities
 - TOD Existing Rail Station
 - TOD Future Rail Station
 - Active Earth Extraction Site
 - Municipality
- Scale: 1 inch = 1/2 mile

Township Plan Designation

Dunham Township: *Agriculture*

Municipal Plan Designations

Harvard: *Agricultural / Rural*

McHenry County 2030 Comprehensive Plan – Text Analysis

Land Use

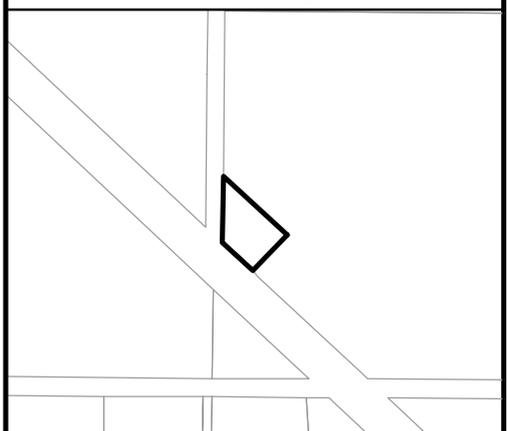
Agricultural – represents existing agricultural areas, including cropland, pastureland, farm yards, and farmsteads that should remain in agricultural use through the 2030 planning horizon. Development on the Agriculture district should be strictly limited to agriculture, agriculture residences, and agricultural support use.

All other proposed developments within the Agricultural district should be scrutinized for compatibility with agricultural uses. Existing residential parcels within the Agricultural district should not be used as a basis for justifying approval of new residential developments in the Agricultural district. (p. 134)

Sensitive Aquifer Recharge Areas

The site does not contain any “high contamination potential” zones.

Sensitive Aquifer Recharge Areas (SARA)



- High Contamination Potential
- Moderate Contamination Potential

Community Character & Housing

Objective: "Promote a mix of housing types and values to meet the needs of all segments of the population." (p.15)

The proposed conditional use for a single-family residence offers the opportunity of a live-work housing option.

Agricultural Resources

Objective: "*Maintain and protect the most productive agricultural lands, where appropriate, by discouraging non-agricultural growth in these areas.*" (p. 29)

The property is currently zoned *B-1 Neighborhood Business*. The requested reclassification to *B-3 General Business* would not promote agricultural resources more than the existing zoning in this case. The requested conditional uses for storage of commercial equipment and vehicles, a single-family residence, and production, processing, and storage of firewood and mulch would not be conducive to the promotion of agriculture.

Greenways, Open Space & Natural Resources

Objective: "*Promote land uses that... minimize the impact on land, water, energy, and other natural resources*"... (p. 43)

The requested conditional use, if approved, should be controlled by conditions and a site plan to limit the area/extent of the use and ensure that the site is properly designed.

Water Resources

Objectives: "*Preserve, improve, and replenish the quality and quantity of existing groundwater resources.*" (p. 63)

The site does not contain any "high contamination potential" zones or *Sensitive Aquifer Recharge Area*.

Economic Development

Objective: "*Increase the commercial/industrial tax base to be at least 35% of the countywide total tax base.*" (p.87)

Reclassification to B-3 General Business would allow them to grow and expand their business.

Infrastructure

Objective: "*Encourage future development in the County to concentrate adjacent to existing infrastructure and maximize use and efficiency of existing facilities.*" (p. 103)

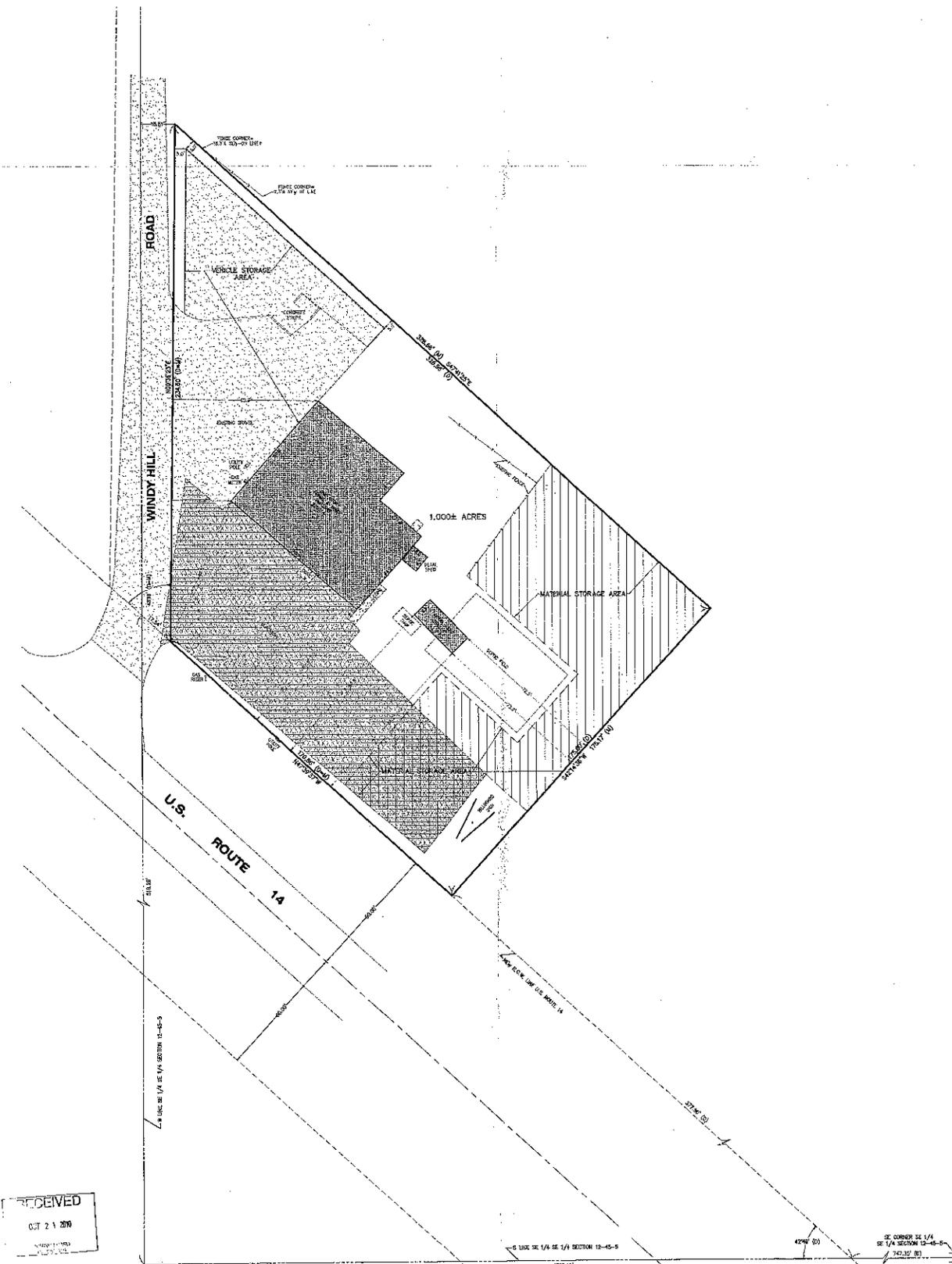
The proposed use is located adjacent to an arterial highway, which is an appropriate location for a use that would generate traffic.

2030 Comprehensive Plan Analysis

The proposed reclassification and conditional uses consistency with the text of the 2030 Plan is mixed. The PIQ is located adjacent to an arterial highway, which in an appropriate location for a business use. There are no presents of flood hazard areas or Sensitive Aquifer Recharge Areas, therefore the requests would have minimal environmental impacts. The conditional use request for a single family residence would be creating an opportunity of a live-work housing unit. However the 2030 Plan text is neutral regarding the requested conditional uses for storage of commercial vehicles and equipment and the production, processing and storage of firewood and mulch. The requests are not consistent with the *2030 Future Land Use Map* designation for the PIQ, which is AGRICULTURAL.

EXHIBIT

Part of the Southeast Quarter of the Southeast Quarter of Section 12, Township 45 North, Range 8 East of the Third Principal Meridian, in McHenry County, Illinois lying on the Northeastern side of the Highway U.S. Route 14 described as follows: Commencing in the South Line of said Section 12 at a point 747.35 feet West from the Southeast corner thereof, thence Northerly along a line forming an angle of 42 degrees and 49 minutes to the right with a prolongation of the last described line, and being along the Northerly right-of-way line of Highway U.S. 14 for a distance of 677.5 feet to a point, for a Piece of Beginning thence Northerly along a continuation of the last described line, 170.55 feet, thence Northerly on a line forming an angle of 48 degrees and 10 minutes to the right with a prolongation of the last described line, 234.5 feet, thence Southerly on a line parallel with said Highway, U.S. 14 for a distance of 326.95 feet, thence Southerly at right angle to the last described line, 175 feet, to the Piece of Beginning in McHenry County, Illinois.



RECEIVED
 OCT 21 2010

CLIENT: T.J. RICHMONDS
 DRAWN BY: ST
 CHECKED BY: MUV
 SCALE: 1" = 20'
 SW - 12 - T. 45, R. 8 E.
 PLATS OF BEARING ASSIGNED
 P.L.N. 06-12-400-COR
 JOB NO.: 100187
 I.D. P38
 FIELDWORK COMP. 5/27/10
 SK. 50, PD. 67
 ALL BEARINGS MADE BY FIELD AND REDUCED TO SEA LEVEL
 PLATS MADE OR DERIVED TO 50' F.



ZONING BOARD OF APPEALS REPORT

TO THE MCHENRY COUNTY BOARD

PETITION #: 10-32

1. **Petitioner:** Erich and Terry Utech
2. **Request:** Conditional Use Permit to allow the outdoor storage of recreational vehicles on the PIQ.
3. **Location and size of property in question:** The subject property consists of 3.9 acres and is located on the east side of Lily Pond Road, 1070 feet north of U.S. Route 14 in Dorr Township, McHenry County, Illinois. Common address: 3510 Lily Pond Road, Woodstock, Illinois.
4. **Date and time of hearing:** October 28, 2010 @ 1:30 PM
Date and time of the voting meeting: April 20, 2011 @ 9:30 AM
5. **Location of hearing and voting meeting:** McHenry County Administration Building, 667 Ware Road, Woodstock, Illinois 60098, Conference Room B
6. **Present at hearing:**
 - A. ZBA Members: Vice Chairman Edward Haerter, Vicki Gartner, Charles Eldredge, *Mark Elmore, Robin Perry*, Linnea Kooistra (Robin Perry and Mark Elmore were no longer on the Board at the time of the vote - - Elizabeth Scherer and David Stone read transcript prior to vote)
 - B. Witnesses: Joann Utech
 - C. Attorney: Jeffery J. Altman
 - D. Public: Sean Foley - County Staff

Items of evidence: Plat of Survey, McConnell Environmental report

7. **SUMMARY OF TESTIMONY AT HEARING:**

Vice Chairman Haerter opened the hearing and stated that the Petitioners were before the Board requesting a Conditional Use Permit to allow the outdoor storage of recreational vehicles on the PIQ.

Vice Chairman Haerter stated that the Endangered Species Consultation had been received. The Soil and Water Conservation District report had also been received.

Joann Utech was called as a witness. She explained that she is the wife of Erich Utech and the sister-in-law of Terry Utech. She currently resides on a portion of the subject property with her husband [later clarified as the property adjacent to the subject property]. They have resided at that location since 2007, however the property has been in the family since 1987. Ms. Utech noted that there are also horses and pigs on the property, as well as a pole barn that is used for farm equipment.

Ms. Utech stated that there are currently 12 recreational vehicles and 3 trailers being stored on the subject property. She found that the trailers would not fall under the recreational vehicle definition and would need to be removed from the property. A

Plat of Survey was submitted as Exhibit 1. Using the exhibit, Ms. Utech pointed out the gravel parking lot where the recreational vehicles are currently parked. The property is accessed through a driveway that extends out to Lily Pond Road. Ms. Utech noted that Bakley Construction [under Woodstock Bank Trust #2407], which owns the property to the north, also utilizes that driveway for their gravel extraction company. She also indicated that owners of the recreational vehicles stored on the subject property only come in and out of the site, on average, four times per month during the summer months and one or two times per month during the winter months.

Ms. Utech estimated that the nearest neighbor's residence to the proposed storage location is approximately 600 feet. She stated that there are also trees that screen the storage area.

Ms. Utech indicated that the owners of the vehicles to be stored on site do not do any type of maintenance on site, and there has never been any problem with fluids leaking or being dumped at that location. She stated that she has not heard any objections or problems from neighbors with regard to the proposed use on the property. Ms. Utech addressed the Standards for Conditional Use, noting that the use would not impair any properties value or enjoyment in the area.

Vice Chairman Haerter noted that the property is in a Sensitive Aquifer Recharge Area and that there is a high functional wetland on the west portion of the parcel. Staff expressed their concerns with regard to possible leaking fluids in that area. The Petitioner confirmed that McConnell Environmental had visited the property and determined that there were no wetlands found within 120 feet of the existing gravel parking lot. That report was generated in April of 2010 and was entered as Exhibit 2.

8. **Planning & Development Department Staff Report-Comments and Conclusions:**
The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

This request is compatible with the surrounding zoning and consistent with some adjacent land uses, but inconsistent with others. The request is not consistent with the 2030 Plan map designation of RESIDENTIAL. The 2030 Plan text is generally neutral regarding the proposal, except that water resources could be adversely affected due to the potential for aquifer contamination. The petitioner must provide evidence in the hearing that the proposed use will meet the requirements set forth in the 2000 McHenry County Zoning Ordinance for a Conditional Use within the A-1 Agriculture zoning district.

Staff would recommend approval, subject to appropriate conditions, if the petitioner can demonstrate that the requested use would meet all the Standards for a Conditional Use and the storage surface area were designed in such a way as to prevent contamination of the sensitive aquifer recharge area.

BACKGROUND

The Property in Question (PIQ) is 3.92 acres in area (Portion of PIN 13-23-200-002). The only structure on the site is a 4,338-square-foot metal barn. The site also contains a 19,916-square-foot gravel storage surface area, which is proposed to be used in connection with the Conditional Use.

STAFF ANALYSIS

The purpose of the Conditional Use is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

1) Current Land Use:

The requested Conditional Use is not compatible with the Single-Family Residential uses to the south, east, and west of the PIQ. The requested Conditional Use is compatible with the Earth Extraction use to the north. The requested Conditional Use would be compatible with the Agricultural uses to the north and south of the PIQ if appropriate conditions were imposed.

2) Zoning:

The requested Conditional Use will not affect the underlying zoning, which will remain A-1 Agriculture. Commercial Storage of Automotive Recreational Vehicles would be allowed in the A-1 district with approval of a Conditional Use Permit, in accordance with Section 501 of the *Zoning Ordinance*, as a use which, because of its unique characteristics, cannot be properly classified in any particular district(s) without consideration of its impact upon neighboring land and of the public need for this particular use at this particular location. Most surrounding properties are zoned A-1 Agriculture, except to the far west, which is zoned Light Manufacturing in the City of Woodstock.

3) 2030 Comprehensive Plan text:

The requested Conditional Use could have an adverse impact on water resources, due to the potential for aquifer contamination, since fluids may leak from the vehicles, and the storage lot is composed of a gravel surface. According to the submitted site plan, the conditional use area would be situated in a “high contamination potential” zone. The proposal is generally in agreement with the *Infrastructure* element, and it is neutral or not relevant to the remaining sections of the plan.

4) 2030 Comprehensive Plan Future Land Use map:

The parcel is designated as future RESIDENTIAL, which would translate into future R-1, R-2, or R-3 zoning districts under the current *Zoning Ordinance*. Storage of recreational vehicles would not be allowed in those districts. The PIQ is also located within a Transit-Oriented Development overlay area, since it is within ½ mile of a planned Metra station. Storage of recreational vehicles is not related to transit-oriented development. Therefore this request is not consistent with either *Future Land Use* land use designation.

5) Environmental Factors:

Due to the potential for leakage of vehicle fluids, the requested Conditional Use could have an adverse impact on water resources, since the entire site has high aquifer contamination potential. The PIQ does not contain any floodplain. County

maps indicate some wetland along the 24-degree angled property line dimensioned as 400 feet. However this Conditional Use would not impact this wetland area.

NOTES

- The Petitioner must meet all requirements of Article 5, Section 502.3 STANDARDS FOR CONDITIONAL USE.
- A request-for-service (RFS) #2010-00064 is currently open for the unlawful storage of commercial vehicles in the A-1 Agriculture zoning district. The granting of the requested conditional use by the McHenry County Board would make it possible for the petitioner to lawfully store recreational vehicles on the site.
- The use of the building has not been declared. If it is to be used for the Conditional Use, it must meet Commercial Building Code standards.
- A Stormwater Management Permit (#2010-0064) has been issued for the 19,916-square-foot gravel parking area. The permit limits the area of the parking lot.
- The existing driveway appears to also be utilized by the aggregate extraction operation to the north of the PIQ. The petitioner should explain any effects on vehicular traffic.

Staff may have additional comments based upon the testimony presented during the hearing.

9. **Soil and Water Conservation District Report:** For additional information refer to NRI #L10-039-3623.
10. **Illinois Department of Conservation:** The consultation has been terminated.
11. **SUMMARY OF VOTING MEETING DISCUSSION:**

Chairman Kelly opened the voting meeting, and stated that there were six proposed conditions:

1. The Conditional Use Permit shall expire 10 years from the date of approval by the McHenry County Board or sooner if the outdoor storage has ceased for a period of more than 12 consecutive months.
2. Parking and storage of recreational vehicles shall be limited to the area as designated "gravel parking area" on the attached site plan which is dated June 3, 2010.
3. No storage of recreational vehicles or parts thereof is permitted in any building.
4. Recreational vehicle maintenance on the site shall be prohibited.
5. The south property line adjacent to the gravel parking area shall be screened in accordance with Section 308.3 of the 2000 McHenry County Zoning Ordinance.
6. All applicable federal, state and local laws shall be met.

Vicki Gartner made a motion to add a condition prohibiting semi trailer storage on site. Elizabeth Scherer seconded the motion. Dave Stone was opposed to the change as he indicated the law already covers that. Ms. Gartner withdrew the motion. Mr. Stone made a motion to approve the six proposed conditions. Charles Eldredge seconded the

motion. The Board voted to approve the conditions. Mr. Eldredge made a motion to recommend approval of the request, subject to the approve conditions. Mr. Stone seconded the motion. Mr. Eldredge felt that the request met the Standards for Conditional Use and is consistent with other uses in the area. Ms. Scherer had some concerns with regard to the residences around the area. Mr. Stone noted that there is distance and buffering between the proposed use and the surrounding homes. Linnea Kooistra stated that the proposed business is not agriculturally related and felt it would not be compatible with the A-1 zoning district. Vice Chairman Haerter stated that he was in favor of the request, as it is well screened and none of the neighbors have complained.

12. Facts that support recommending *approval* of the request:

- 1.) The property is well screened from surrounding properties.
- 2.) The Standards for Conditional Use, outlined in Section 502.3 of the McHenry County Zoning Ordinance, have been met to the satisfaction of some of the Zoning Board of Appeals members.

13. Facts that support recommending *denial* of the request:

- 1.) The use is not agriculturally related.
- 2.) Some Board members felt the location was not suitable for this type of business.

14. Motion: Made by Charles Eldredge, seconded by David Stone for a Conditional Use Permit to allow the outdoor storage of recreational vehicles on the PIQ, subject to the following conditions:

1. The Conditional Use Permit shall expire 10 years from the date of approval by the McHenry County Board or sooner if the outdoor storage has ceased for a period of more than 12 consecutive months.
2. Parking and storage of recreational vehicles shall be limited to the area as designated "gravel parking area" on the attached site plan which is dated June 3, 2010.
3. No storage of recreational vehicles or parts thereof is permitted in any building.
4. Recreational vehicle maintenance on the site shall be prohibited.
5. The south property line adjacent to the gravel parking area shall be screened in accordance with Section 308.3 of the 2000 McHenry County Zoning Ordinance.
6. All applicable federal, state and local laws shall be met.

15. Vote: 4 - AYES; 2 - NAYS; 0 - ABSTAIN

Charles Eldredge - Aye
Elizabeth Scherer - Nay
David Stone - Aye
Vicki Gartner - Aye
Linnea Kooistra - Nay
Ed Haerter - Aye

GOES TO COUNTY BOARD WITH NO ZBA RECOMMENDATION

1 on.

2 ACTING CHAIRMAN HAERTER: We haven't voted on it
3 yet. Okay. Number 7 is withdrawn.

4 Anything else on the conditions?

5 (No response.)

6 I'll take a motion on the six conditions
7 as developed.

8 MR. STONE: I move approval of the six conditions.

9 MR. ELDREDGE: Second.

10 ACTING CHAIRMAN HAERTER: All in favor of the six
11 conditions, say aye. Opposed.

12 (Whereupon a voice vote was taken.)

13 Okay. The six conditions pass.

14 MR. KELLY: I'm recusing myself for the record on
15 this hearing based on my sister working with Mr. Altman.

16 ACTING CHAIRMAN HAERTER: Correct. Okay. Thank
17 you.

18 MS. SCHERER: Just for the record I was not present
19 and I have read the transcript.

20 MR. STONE: I need to say that. I did the same
21 thing.

22 ACTING CHAIRMAN HAERTER: Okay. I will take a motion
23 on the petition itself.

24 MR. ELDREDGE: So moved.

1 MR. STONE: Second.

2 ACTING CHAIRMAN HAERTER: Moved by Mr. Eldredge and
3 seconded by Mr. Stone. Discussion, Mr. Eldredge.

4 MR. ELDREDGE: The site quality is a sensitive
5 aquifer recharge area. It has been used in a commercial
6 fashion and it's surrounded by gravel pits that have been
7 there from time immemorial. I believe that the petitioner
8 has met the standards for Conditional Use. I feel the use
9 is appropriate on the site under the circumstances and I
10 am in favor.

11 MS. SCHERER: Yes. I did read the transcript on
12 this. I am looking at the staff report with regard to the
13 number of homes that are in the area. This is-- while it
14 does back up to a gravel pit, there are quite a few
15 homes. I'm very familiar with the area also surrounding
16 this property.

17 I have some hesitation with regard to
18 that, but I'm listening to what other people have to say.

19 MR. STONE: I think it meets the standards. I have
20 some-- as you know, I'm relatively new to the Board. I
21 had some questions about Conditional Uses when a business
22 is created on the property. But I'm thinking about it as
23 property similarly situated to this that are in the County
24 in the same way. And next to a gravel pit which

1 apparently if I understand it right is probably going to
2 remain a big hole since it doesn't have a reclamation
3 plan. And in terms of the homes surrounding it, they are
4 pretty far. Actually there is quite a bit of buffer
5 between the homes and this area where the vehicles will be
6 stored. So I'm going to vote in favor of it.

7 MS. GARTNER: I agree with what's been said. And I
8 would agree.

9 MS. KOOISTRA: I have some issues with this
10 petition. Number one is the intent for our Conditional
11 Uses. Under the intent in 501, the purpose is to
12 establish standards for those uses which because of their
13 unique characteristics cannot be properly classified in
14 any particular district. That we need to consider the
15 public need for this particular use at this particular
16 location.

17 Now, maybe the County Board has changed.
18 But as I remember the direction that I was given when I
19 came on the Zoning Board was that for Conditional Uses in
20 an agricultural area, the County Board wanted them
21 agriculturally related. And that's why we have approved
22 things such as landscaping businesses.

23 This use is storage of recreational
24 vehicles, which is not at all agriculturally related.

1 It's a for profit business and it's outdoors. I also
2 believe it doesn't meet the 2030 Land Use Plan and in
3 concurrence with staff's comments and our staff report in
4 that this parcel is designated as future residential. It
5 would translate in to R-1, R-2 and R-3 zoning. And
6 storage of recreational vehicles would not be allowed in
7 those districts.

8 At the time the staff report was
9 written, it was also within a half mile of a planned Metra
10 station. I don't know if that's still the case or not.
11 But storage of recreational vehicles is not related to
12 transit oriented development as well. It's not compatible
13 with the single family residential uses to the south, east
14 and west of the property in question.

15 And so I just feel that if we approve
16 petitions like this and all this outside storage in
17 agricultural areas, that we just-- it's not related to
18 agriculture. And I just don't think that it looks good to
19 just have outside storage everywhere out in the country of
20 things that aren't even related to agriculture.

21 But specifically I'm referencing the
22 ordinance because that is the law of the County. And I
23 don't think they did demonstrate a public need for this
24 particular use at this particular location. It's just a

1 money making opportunity for the land owner. So I will be
2 voting against this.

3 MR. STONE: The only comment I'd like clarification
4 about is it seems to me I had the same concern. That's
5 what I was talking about. But the concern was that I
6 think the intent of the Conditional Use is if there is a
7 use specified in the table, then you couldn't even get a
8 Conditional Use. So I don't know that that means that it
9 has to be something unique. How you expressed that wasn't
10 clear to me. I think if there is no specific use in the
11 table of the Zoning Ordinance, then that qualifies it for
12 a Conditional Use. No? Is that wrong thinking on the way
13 to read this?

14 MS. KOOISTRA: The way I have interpreted this is
15 that in each case, no matter if it's in the table or not,
16 in each case we have to take in to consideration if there
17 is a public need for this.

18 MR. STONE: That's in the standard requirements.
19 That's one of the requirements. But how do you assess
20 what's in the public need? Obviously they have been
21 filling this space up and they're hardly even-- there is
22 no sign. There is nothing. So there must be a public
23 need for it if they're able to have 22 people renting
24 space there.

1 MS. KOOISTRA: The problem that I see is that there
2 is a public need for storage of recreational vehicles
3 possibly. But at this location? Are they cheaper than
4 storage at a commercial location and so that's why they
5 have it? Does that mean that there is a public need at
6 this location? I don't think that's clearly
7 demonstrated.

8 MS. SCHERER: This is part of the problem that I have
9 with many of these too. Because obviously you can store
10 campers or, you know, that type of thing at businesses
11 that are established. Those businesses are paying
12 business taxes to the County. When you put them in the
13 middle of a farm field, I kind of doubt that there are
14 business taxes being translated to the County. And if
15 each person that had agricultural land was going to store
16 semis or, you know, whatever on it, I think that we would
17 see an overall problem. And I have a problem with being
18 arbitrary with regard to storage of this kind of stuff.

19 Obviously they're making money off of
20 it. It's a business. You know, and there are other
21 businesses in the County that can provide this service.
22 The fees may be higher because those businesses pay
23 taxes. And that's just a problem that I have with
24 Conditional Uses in general.

1 MR. ELDREDGE: Well, this parcel is completely
2 unsuited. It may be zoned agricultural, but it's
3 completely unsuited for agricultural use. It's never
4 going to have crops on it.

5 MR. STONE: Looks like there are crops on part of it.

6 MS. KOOISTRA: Mr. Eldredge, agricultural use
7 includes a lot of other things besides cropping. And they
8 have horses. They even talk about the horses that they
9 use here for training and barrel racing and that sort of
10 thing.

11 MR. ELDREDGE: Well, yes. There are horses on it.
12 And it can be used for horses. But it doesn't grow much.
13 It's mostly gravel. And it hasn't been used
14 agriculturally other than for pets in years and years and
15 years. There is adjacent to it some agricultural property
16 and there are some large estate residences. But I simply
17 disagree that it's an inappropriate use in this location.
18 It seems to me that if we bar this use, we are for the
19 most part barring any reasonable use of this property for
20 this land owner.

21 MS. GARTNER: I do agree with Mr. Eldredge there.
22 Because these parcels of farmland that have no purpose,
23 that they can't be farmed. They can't be used for
24 anything. They come here with a request for a Conditional

1 Use on there. If we say no, depending on the
2 circumstances, then there is nothing can be done with
3 these little parcels of properties.

4 MS. SCHERER: But that's the way they purchased it.
5 I mean they purchased a piece of land that was non
6 productive. So then is the County responsible for undoing
7 what they have already done by purchasing it? I mean do
8 we-- do we as taxpayers need to provide a use for a parcel
9 that they already purchased?

10 MS. GARTNER: I don't disagree with you. I don't
11 disagree with you. But I think I'm falling more on the
12 side of they are trying to keep a small business going on
13 this property. And in my mind it's not offensive in any
14 way and it's not against any of our standards. And since
15 it's a very unique thing, it's a Conditional Use.

16 ACTING CHAIRMAN HAERTER: I agree with the
17 individuals on the Board that are supporting this. I have
18 been out there twice to look at it. You absolutely cannot
19 see the houses that are around it when you're on the
20 property. In fact, it's hard to find the road in. And
21 none of the neighbors came and protested. If there had
22 been a problem, I'm sure they would have. I believe the
23 testimony was they come in and they go out. They don't
24 come back and forth very often. The only people that are

1 really affected by this storage are the owners themselves,
2 whose house is directly adjacent to it. And as
3 Mr. Eldredge said, I don't think-- this is zoned
4 agriculture but there certainly isn't farm use I can think
5 of, especially where it's located. So I'd be in favor of
6 it also.

7 MS. KOOISTRA: I have a few other comments when
8 you're done.

9 ACTING CHAIRMAN HAERTER: Go ahead.

10 MS. KOOISTRA: I would like to go back to the
11 agricultural use in that pasturage, horticulture,
12 wholesale greenhouses, aqua culture, poultry husbandry,
13 all those sorts of things would be adequate on this parcel
14 as well.

15 The owner has a total of 18.65 acres.
16 They're only asking for a Conditional Use on this parcel.
17 But they own more acreage to the east. So they own-- you
18 know, it's a larger parcel in total. So I just want to
19 make sure that the rest of the Board is aware of that as
20 well.

21 ACTING CHAIRMAN HAERTER: Okay. At this time I'll
22 call for the vote. Mr. Eldredge.

23 MR. ELDREDGE: Yes.

24 ACTING CHAIRMAN HAERTER: Mrs. Scherer.

1 MS. SCHERER: No.

2 ACTING CHAIRMAN HAERTER: Mr. Stone.

3 MR. STONE: Yes.

4 ACTING CHAIRMAN HAERTER: Mrs. Gartner.

5 MS. GARTNER: Yes.

6 ACTING CHAIRMAN HAERTER: Mrs. Kooistra.

7 MS. KOOISTRA: No.

8 ACTING CHAIRMAN HAERTER: I will vote yes. So this
9 will go to the County Board with a four to two vote and no
10 recommendation.

11 At this time then the hearing is
12 closed.

13

14

15 ---oOo---

16

17

18

19

20

21

22

23

24

IN THE MATTER OF THE APPLICATION)
OF ERICH UTECH and TERRY UTECH FOR AN)
AMENDMENT OF THE ZONING ORDINANCE) 10-32
OF McHENRY COUNTY, ILLINOIS FOR)
A CONDITIONAL USE.)

WHEREAS, your Petitioners ERICH UTECH and TERRY UTECH have filed a petition with the McHenry County Zoning Board of Appeals requesting the issuance of a Conditional Use as it relates to the McHenry County Zoning Ordinance, and of such Ordinance as amended, as it relates to the real property more fully described as:

PARCEL 1

PART OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 23, TOWNSHIP 44 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE NORTH ALONG THE NORTH AND SOUTH QUARTER SECTION LINE, FOR A DISTANCE OF 398.51 FEET TO A POINT; THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER, FOR A DISTANCE OF 823.8 FEET TO AN INTERSECTION WITH THE CENTER LINE OF THE PUBLIC HIGHWAY; THENCE SOUTHEASTERLY ALONG THE CENTER LINE OF SAID HIGHWAY AND BEING ON A LINE FORMING AN ANGLE OF 113 DEGREES, 58 MINUTES TO THE LEFT, WITH A PROLONGATION OF THE LAST DESCRIBED LINE, A DISTANCE OF 36.09 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER, FOR A DISTANCE OF 476.7 FEET; THENCE SOUTHEASTERLY ON A LINE FORMING AN ANGLE OF 66 DEGREES, 02 MINUTES TO THE RIGHT, WITH A PROLONGATION OF THE LAST DESCRIBED LINE FOR A DISTANCE OF 400 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER; THENCE EAST ALONG SAID SOUTH LINE, A DISTANCE OF 172.7 FEET TO THE PLACE OF BEGINNING, IN McHENRY COUNTY, ILLINOIS.

AND

PARCEL 2

THE WEST 130.00 FEET OF THAT PART OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 44 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTH ALONG THE WEST LINE OF SAID NORTHEAST QUARTER, FOR A DISTANCE OF 398.51 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER, FOR A DISTANCE OF 130 FEET; THENCE NORTH PARALLEL WITH THE WEST LINE OF SAID NORTHEAST QUARTER, FOR A DISTANCE OF 483.23 FEET TO AN INTERSECTION WITH THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID RIGHT OF WAY, FOR A DISTANCE OF 1124.02 FEET; THENCE NORTH ON A LINE FORMING AN ANGLE OF 125 DEGREES, 31 MINUTES TO THE LEFT, WITH A PROLONGATION OF THE LAST DESCRIBED LINE, FOR A DISTANCE OF 61.81 FEET; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF SAID CHICAGO AND NORTHWESTERN RAILWAY COMPANY, FOR A DISTANCE OF 499.4 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE WEST ALONG SAID SOUTH LINE, 1448.2 FEET TO THE PLACE OF BEGINNING, IN McHENRY COUNTY, ILLINOIS.

Part of PIN 13-23-200-002

More commonly known as 3510 Lily Pond Road, Woodstock, Illinois 60098

WHEREAS, the Petition requests no reclassification of the subject property from its present classification which is "A-1" Agriculture, but a Conditional Use be granted to allow the outdoor storage of recreational vehicles on the property in question.

WHEREAS, the subject property consists of approximately 3.9283 acres in which no reclassification is contemplated.

WHEREAS, a hearing on said petition was held before the Zoning Board of Appeals of McHenry County in the manner and the form as prescribed by the Ordinance and Statute; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of exhibits advanced thereat, the Zoning Board of Appeals of McHenry County had no recommendation, by a vote of 4 ayes and 2 nays for the granting of a Conditional Use to allow the outdoor storage of recreational vehicles on the property in question with the following condition(s):

1. The Conditional Use Permit shall expire ten (10) years from the date of approval by the McHenry County Board, or sooner, if the outdoor storage has ceased for a period of more than twelve (12) consecutive months.
2. Parking and storage of recreational vehicles shall be limited to the area as designated "gravel parking area" on the attached site plan, which is dated the 3rd of June 2010.
3. No storage of recreational vehicles, or parts thereof, is permitted in any building.
4. Recreational Vehicle maintenance on site shall be prohibited.
5. The south property line adjacent to the "gravel parking area" shall be screened in accordance with section 308.3 of the *2000 McHenry County Zoning Ordinance*.
6. All applicable federal, state and local laws shall be met.

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Zoning Board of McHenry County.

Whereas, the McHenry County Board has determined that the standards for a Conditional Use Permit as set forth in the McHenry County Zoning Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE BE IT ORDAINED, that the Zoning Ordinance and the Zoning Maps of McHenry County, and such Ordinances and such maps as amended, be and the same are hereby amended to allow the issuance of a Conditional Use to allow the outdoor storage of recreational vehicles on the property in question with the following condition(s):

1. The Conditional Use Permit shall expire ten (10) years from the date of approval by the McHenry County Board, or sooner, if the outdoor storage has ceased for a period of more than twelve (12) consecutive months.
2. Parking and storage of recreational vehicles shall be limited to the area as designated "gravel parking area" on the attached site plan, which is dated the 3rd of June 2010.
3. No storage of recreational vehicles, or parts thereof, is permitted in any building.
4. Recreational Vehicle maintenance on site shall be prohibited.
5. The south property line adjacent to the "gravel parking area" shall be screened in accordance with section 308.3 of the *2000 McHenry County Zoning Ordinance*.
6. All applicable federal, state and local laws shall be met.

If any part, sentence, clause, or provision of this ordinance is adjudged to be unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED this _____ day of _____, 20_____.

Chairperson, McHenry County Board
McHenry County, Illinois

ATTEST:

County Clerk

NUMBER VOTING AYE: _____

NUMBER VOTING NAY: _____

NUMBER ABSTAINING: _____

NUMBER ABSENT: _____

Staff Report for the McHenry County Zoning Board of Appeals

Petition: # 10-32

Hearing Date: October 28, 2010

Applicant: Erich and Terry Utech, owners of record.

Request: Conditional Use to allow the outdoor storage of recreational vehicles on the PIQ.

Location: The Property in Question (PIQ) is approximately 3.9 acres in area and is located on the east side of Lily Pond Road, 1,070 feet north of U.S. Route 14 in Dorr Township.

Address: 3510 Lily Pond Road, Woodstock, IL 60098

PIN: Portion of 13-23-200-002

Aerial Map



Prepared by McHenry County Department of Planning and Development (photo: 2008)

Please note: This map is for reference purposes only. Please see the Plat of Survey for exact dimensions and location of the PIQ.

Elevation

(feet above sea level)

— 10-foot contours

— 2-foot contours

Feet
140 70 0 140 280

1 inch equals 140 feet



Staff Report for the McHenry County Zoning Board of Appeals

STAFF COMMENTS

The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

This request is compatible with the surrounding zoning and consistent with some adjacent land uses, but inconsistent with others. The request is not consistent with the *2030 Plan* map designation of RESIDENTIAL. The *2030 Plan* text is generally neutral regarding the proposal, except that water resources could be adversely affected due to the potential for aquifer contamination. The petitioner must provide evidence in the hearing that the proposed use will meet the requirements set forth in the *2000 McHenry County Zoning Ordinance* for a Conditional Use within the A-1 Agriculture zoning district.

Staff would recommend approval, subject to appropriate conditions, if the petitioner can demonstrate that the requested use would meet all the Standards for a Conditional Use and the storage surface area were designed in such a way as to prevent contamination of the sensitive aquifer recharge area.

BACKGROUND

The Property in Question (PIQ) is 3.92 acres in area (Portion of PIN 13-23-200-002). The only structure on the site is a ~~5,782~~ 4,338-square-foot metal barn. The site also contains a 19,916-square-foot gravel storage surface area, which is proposed to be used in connection with the Conditional Use.

STAFF ANALYSIS

The purpose of the Conditional Use is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

1) Current Land Use:

The requested Conditional Use is not compatible with the Single-Family Residential uses to the south, east, and west of the PIQ. The requested Conditional Use is compatible with the Earth Extraction use to the north. The requested Conditional Use would be compatible with the Agricultural uses to the north and south of the PIQ if appropriate conditions were imposed.

2) Zoning:

The requested Conditional Use will not affect the underlying zoning, which will remain A-1 Agriculture. Commercial Storage of Automotive Recreational Vehicles would be allowed in the A-1 district with approval of a Conditional Use Permit, in accordance with Section 501 of the *Zoning Ordinance*, as a use which, because of its unique characteristics, cannot be properly classified in any particular district(s) without consideration of its impact upon neighboring land and of the public need for this particular use at this particular location. Most surrounding properties are zoned A-1 Agriculture, except to the far west, which is zoned Light Manufacturing in the City of Woodstock.

3) 2030 Comprehensive Plan text:

The requested Conditional Use could have an adverse impact on water resources, due to the potential for aquifer contamination, since fluids may leak from the vehicles, and the storage lot is composed of a gravel surface. According to the submitted site plan, the conditional use area would be situated in a "high contamination potential" zone. The proposal is generally in agreement with the *Infrastructure* element, and it is neutral or not relevant to the remaining sections of the plan.

4) 2030 Comprehensive Plan Future Land Use map:

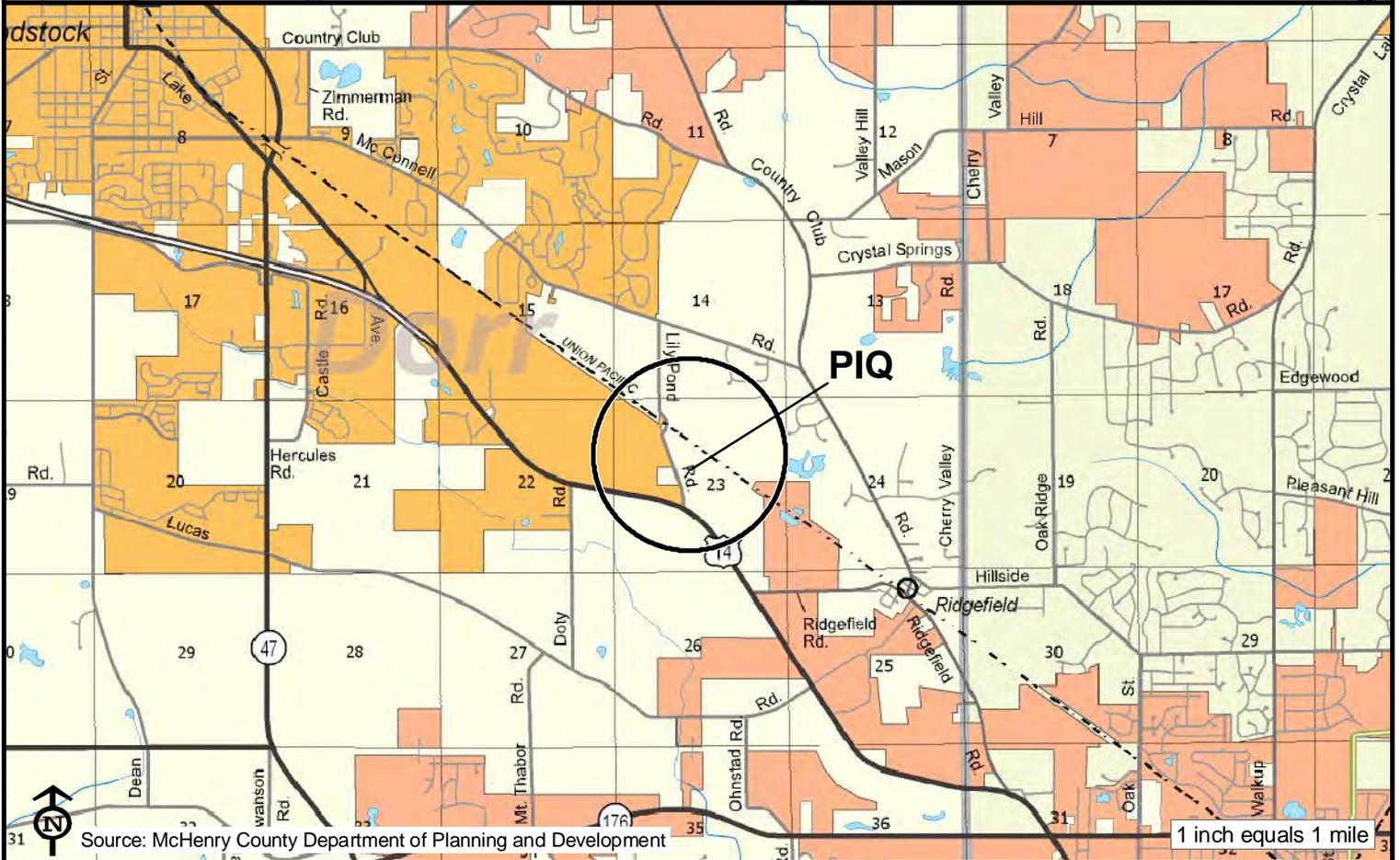
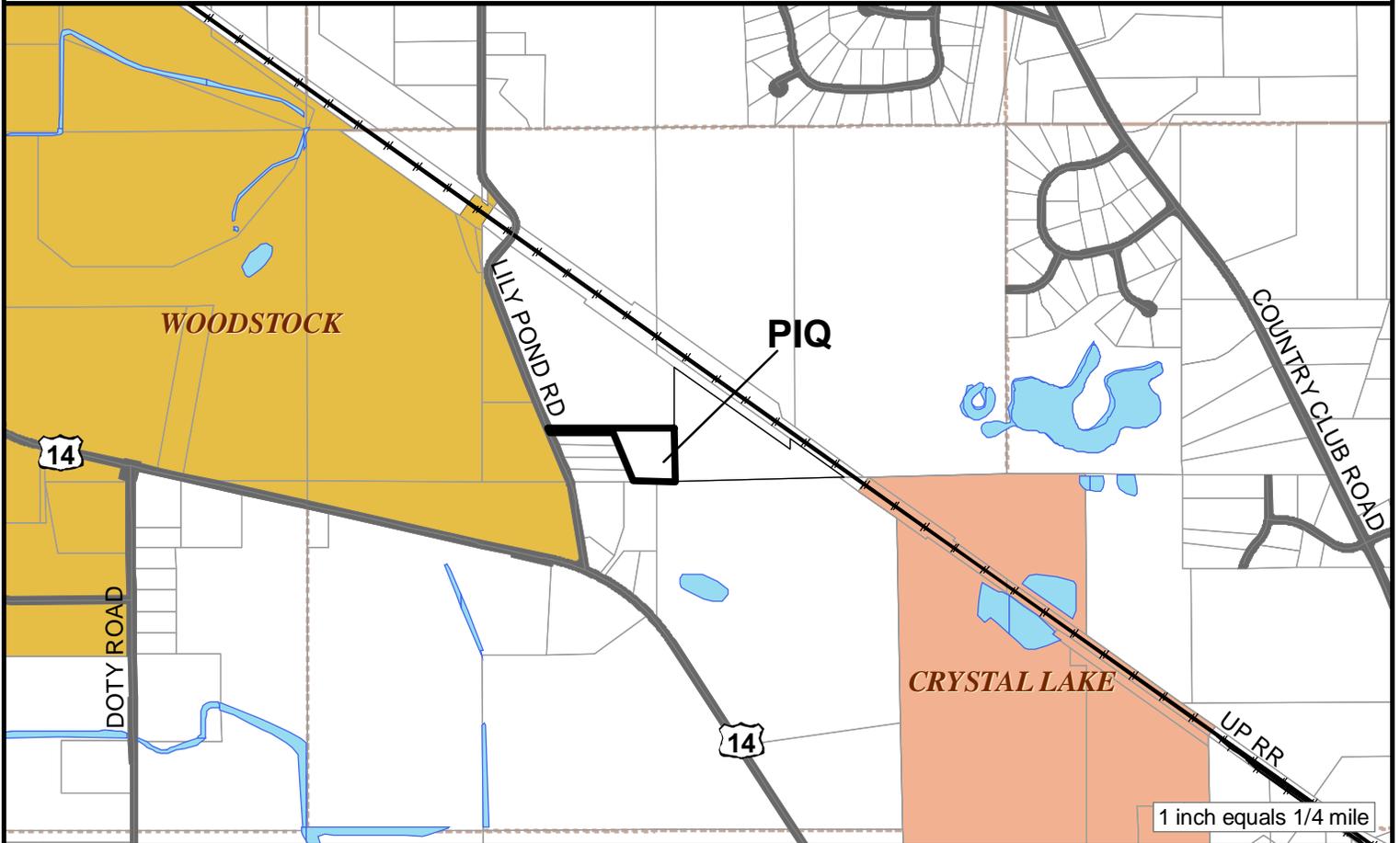
The parcel is designated as future RESIDENTIAL, which would translate into future R-1, R-2, or R-3 zoning districts under the current *Zoning Ordinance*. Storage of recreational vehicles would not be allowed in those districts. The PIQ is also located within a Transit-Oriented Development overlay area, since it is within ½ mile of a planned Metra station. Storage of recreational vehicles is not related to transit-oriented development. Therefore this request is not consistent with either *Future Land Use* land use designation.

5) Environmental Factors:

Due to the potential for leakage of vehicle fluids, the requested Conditional Use could have an adverse impact on water resources, since the entire site has high aquifer contamination potential. The PIQ does not contain any floodplain. County maps indicate some wetland along the 24-degree angled property line dimensioned as 400 feet. However this Conditional Use would not impact this wetland area.

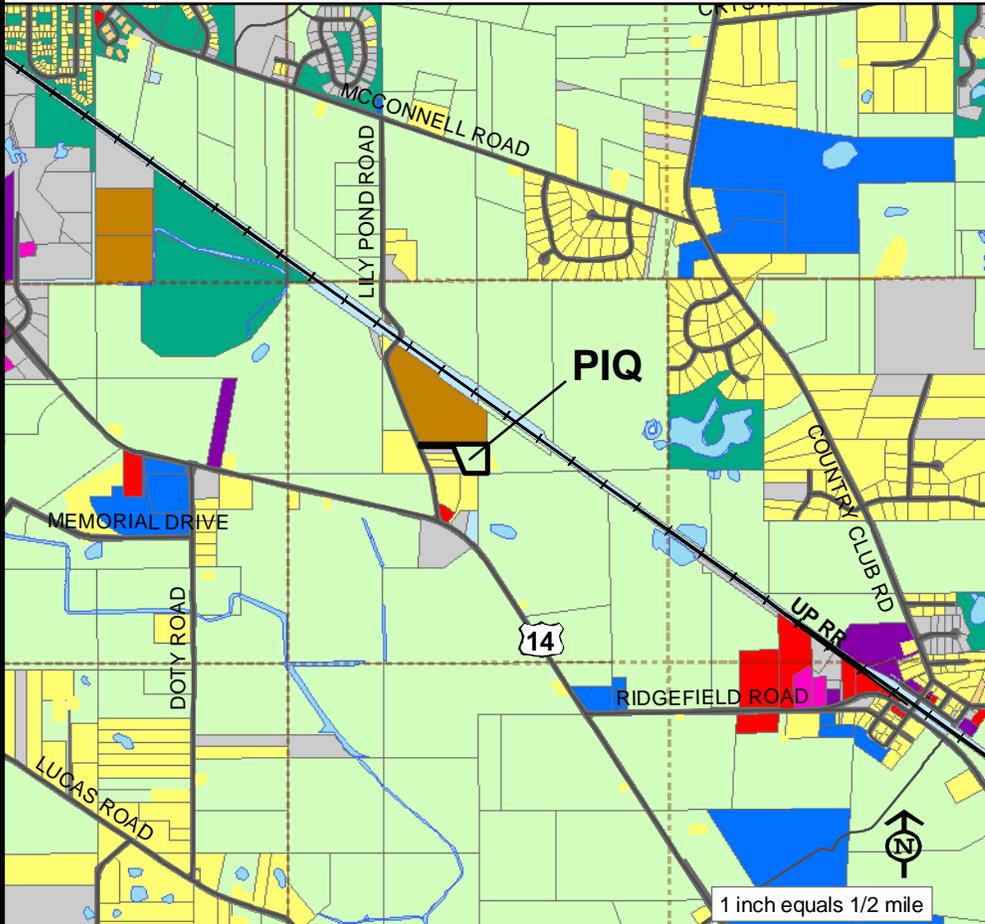
NOTES

- The Petitioner must meet all requirements of Article 5, Section 502.3 STANDARDS FOR CONDITIONAL USE.
- A request-for-service (RFS) #2010-00064 is currently open for the unlawful storage of commercial vehicles in the A-1 Agriculture zoning district. The granting of the requested conditional use by the McHenry County Board would make it possible for the petitioner to lawfully store recreational vehicles on the site.
- The use of the building has not been declared. If it is to be used for the Conditional Use, it must meet Commercial Building Code standards.
- A Stormwater Management Permit (#2010-0064) has been issued for the 19,916-square-foot gravel parking area. The permit limits the area of the parking lot.
- The existing driveway appears to also be utilized by the aggregate extraction operation to the north of the PIQ. The petitioner should explain any effects on vehicular traffic.
- Staff may have additional comments based upon the testimony presented during the hearing.



Source: McHenry County Department of Planning and Development

Current Land Use Map



Current Land Use of the PIQ

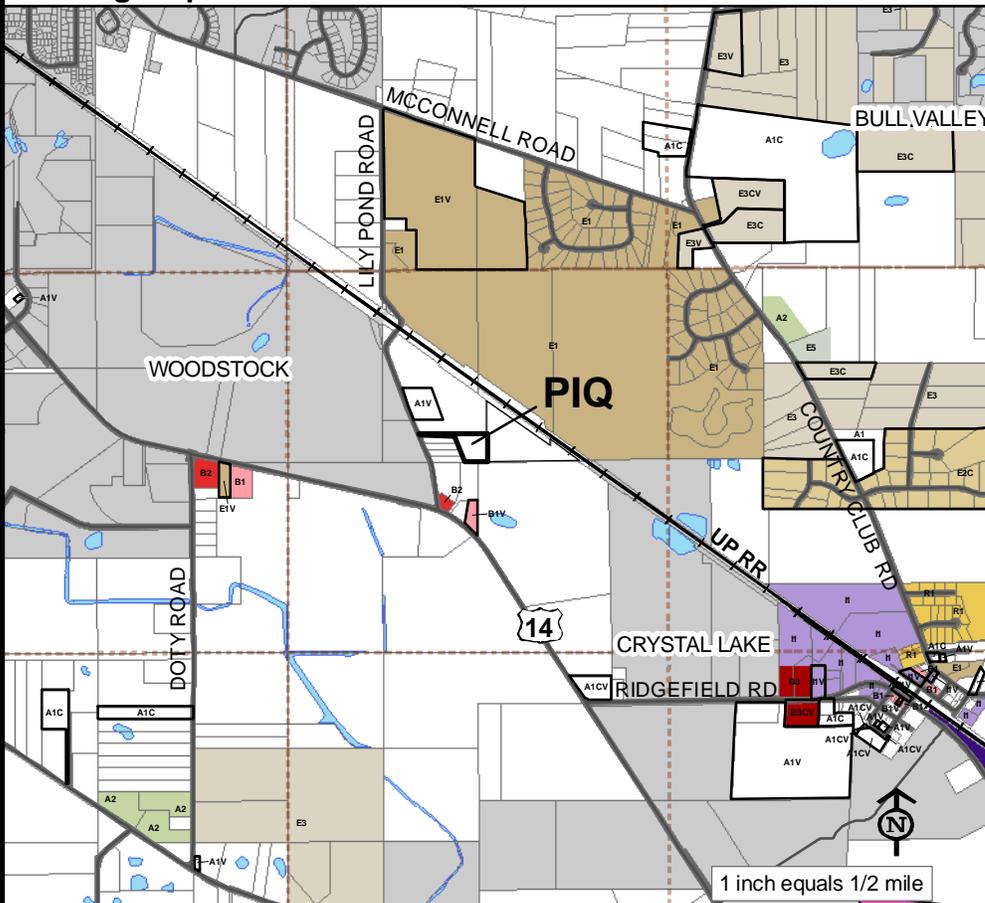
Agriculture

Land Use Adjacent to the PIQ

North: *Earth Extraction*
 South: *Agriculture and Single-Family Resid'l*
 East: *Agriculture and Single-Family Resid'l*
 West: *Single-Family Residential and Vacant*



Zoning Map



Current Zoning of the PIQ

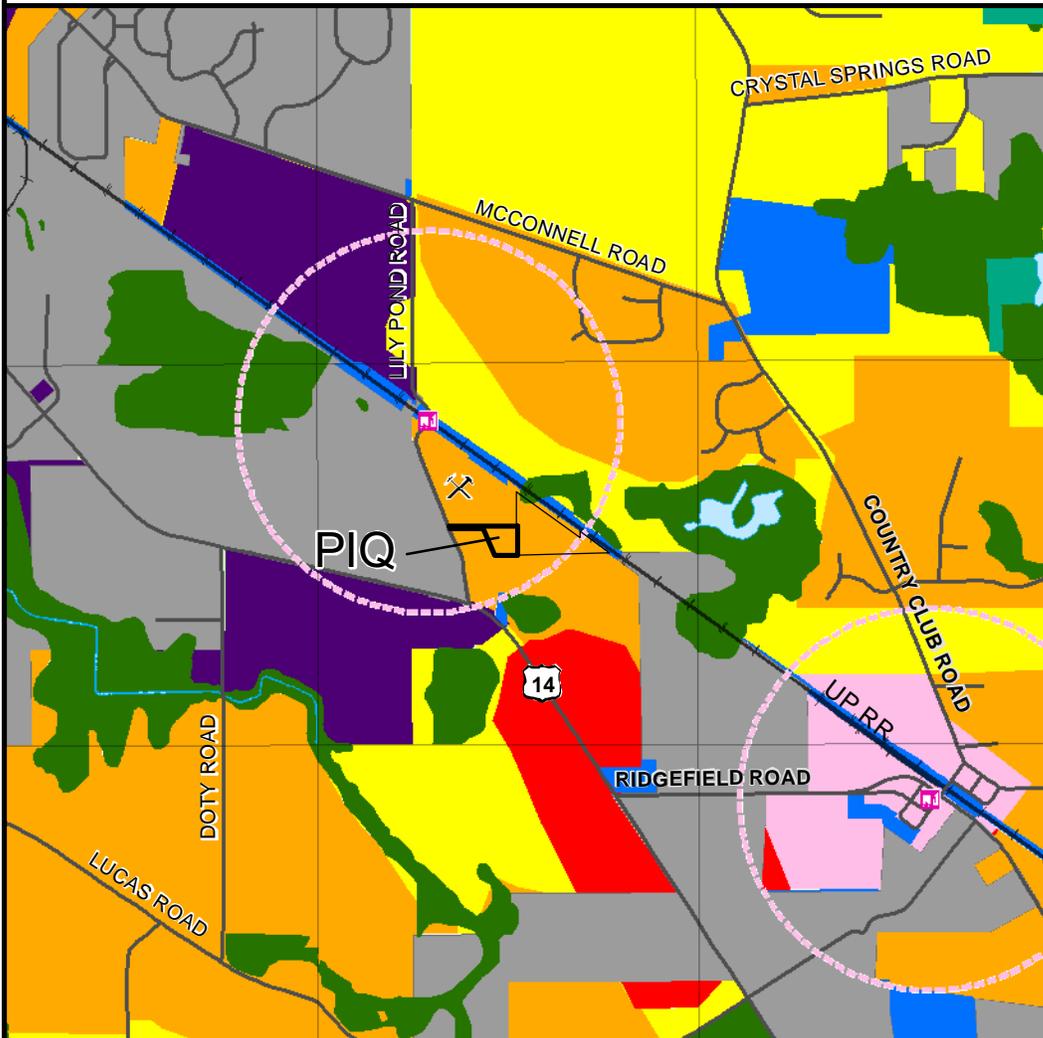
A-1 Agriculture

Zoning Adjacent to the PIQ

North: A-1 Agriculture
 South: A-1 Agriculture
 East: A-1 Agriculture
 West: A-1 Agriculture; and
 Woodstock: M-1 Light Mfg



McHenry County 2030 Comprehensive Plan Future Land Use Map



Future Land Use Map Designation

RESIDENTIAL; and TRANSIT-ORIENTED DEVELOPMENT

- Agricultural
 - Open Space
 - Environmentally Sensitive Area
 - Estate
 - Isolated Estate
 - Residential
 - Isolated Residential
 - Retail
 - Mixed Use
 - Office, Research, Industrial
 - Gov't, Institutional, Utilities
 - TOD Existing Rail Station
 - TOD Future Rail Station
 - Active Earth Extraction Site
 - Municipality
- Scale: 1 inch = 1/2 mile

Municipal/Township Plan Designations

Dorr Township: No land use designation

Bull Valley: 5-9.99-Acre Residential

Crystal Lake: Estate Residential

Woodstock: No Land Use designation

McHenry County 2030 Comprehensive Plan -Text Analysis

Land Use

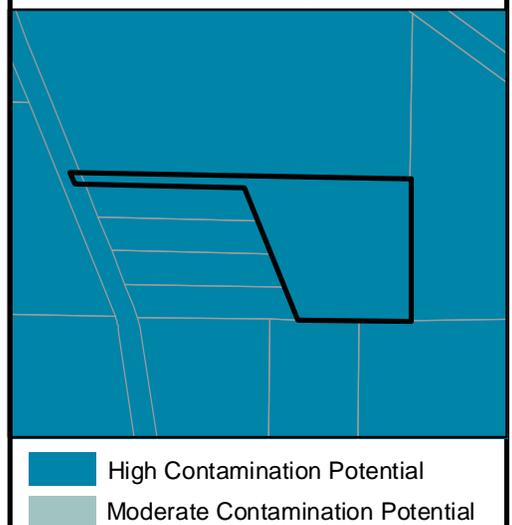
Residential includes existing and proposed areas for single-family and multifamily residential uses at gross densities of less than one acre per dwelling unit. Within the Residential district, development densities should consider nearby land uses and zoning, and the availability of transportation, infrastructure, water supply, and other public services, environmental limitations, and other factors required by County ordinances, state statutes, and case law.

Transit-Oriented Development (TOD) overlay includes a half-mile radius around existing and potential future Metra commuter rail stations. These areas should be considered for retail, office, and residential mixed-use development; redevelopment; and infill development as appropriate based on compatibility with surrounding land use patterns and densities.... (p. 135)

Sensitive Aquifer Recharge Areas

The entire site is located in a high contamination potential zone.

Sensitive Aquifer Recharge Areas (SARA)



Community Character & Housing

No relevant text applies to the proposed use.

Agricultural Resources

Objective: *"Maintain and protect the most productive agricultural lands, where appropriate, by discouraging non-agricultural growth in these areas."* (p. 29)

The PIQ is currently zoned *A-1 Agriculture*. This request does not alter that zoning. The property is barely suitable for farming due to its small area and to the man-made improvements covering the site.

Greenways, Open Space & Natural Resources

Policy 9: *"Protect environmentally sensitive areas from negative impacts of adjacent land uses."* (p.57)

The McHenry County Soil and Water Conservation District maps contain no indication of floodplain or wetlands on the PIQ; although county maps indicate wetland along the western property line. According to the submitted site plan, the Conditional Use would have no impact on the wetland. A stormwater permit has been issued for the location of the existing gravel parking lot.

Water Resources

Objectives: *"Preserve, improve, and replenish the quality and quantity of existing groundwater resources."* (p. 63)

"Protect and preserve Sensitive Aquifer Recharge Areas as a priority of the 2030 Plan. The SARA map shall be utilized as a determining factor in any proposed land use change." (p. 63)

The entire site exhibits high aquifer contamination potential. The gravel storage surface area is in conflict with these objectives due to the potential of fluid leakage from stored vehicles.

Economic Development

Policy: *"Encourage proper design to contain potential contaminants from polluting the aquifers"*. (p. 98)

The gravel storage surface area is in conflict with this policy for the same reason cited above.

Infrastructure

Objective: *"Encourage future development in the County to concentrate adjacent to existing infrastructure and maximize use and efficiency of existing facilities."* (p. 103)

The proposed use is located adjacent to a city/township highway, which is an appropriate location for a use that would generate commercial traffic.

2030 Comprehensive Plan Map Analysis

The *2030 Future Land Use Map* designation for the PIQ is RESIDENTIAL, which would translate into future R-1, R-2, or R-3 zoning districts under the current *Zoning Ordinance*. Storage of commercial equipment and vehicles would not be allowed in those districts and is not consistent with this land use designation.

The site is also located within a TRANSIT-ORIENTED DEVELOPMENT (TOD) overlay, which *"includes a half-mile radius around existing and potential future Metra commuter rail stations. These areas should be considered for retail, office, and residential mixed-use development; redevelopment; and infill development as appropriate based on compatibility with surrounding land use patterns and densities."* Storage of recreational vehicles is not related to transit-oriented development and is not consistent with this land use designation.

**McHENRY COUNTY
SOIL & WATER
CONSERVATION DISTRICT**



1648 S. Eastwood Dr. Woodstock, Illinois 60098 (815) 338-0099 ext. 3 Fax (815) 338-7731

August 6, 2010

Jeff Altman
4310 Crystal Lake Rd., Ste C
McHenry, IL 60050

Re: Parcel # 13-23-200-002
Common Location: 3510 Lily Pond Rd., Woodstock, IL
NRI# L10-039-3623
Zoning Change: Conditional Use for outdoor storage of recreational vehicles.

Dear Mr. Altman:

The McHenry County Soil and Water Conservation District has carefully reviewed your application for Natural Resource Information Report on the Erich Utech & Terry Utech property as applied for in Report #10-039-3623. The SWCD finds that impact to natural resources from the proposed use is minimal for the purposes of the NRI report. A full Natural Resource Information Report will not be necessary.

The McHenry County ADID Wetland Inventory indicates 0.22 acres of High Functional Value Wetland K735 on the north portion of the parcel (see attached ADID Map). In accordance with County ordinances, this wetland requires 100 Feet of buffer. Our wetland inventories are for informational and planning purposes only. Any proposed drainage work, in wet areas, requires a certified wetland delineation. If drainage work is to occur, please contact the Army Corps of Engineers and McHenry County Department of Planning & Development for permit information.

No floodplain was found on the site from office maps.

This letter fulfills your requirement to notify the SWCD of land use changes as per the Illinois Compiled State Statutes, Chapter 70, Par. 405/1 et seq. Illinois Revised Statutes, Ch. 5, Par 106 et seq. and the McHenry County Stormwater Ordinance. If you have any questions concerning this letter, feel free to call our office.

Sincerely,

Spring M. Duffey
Resource Analyst

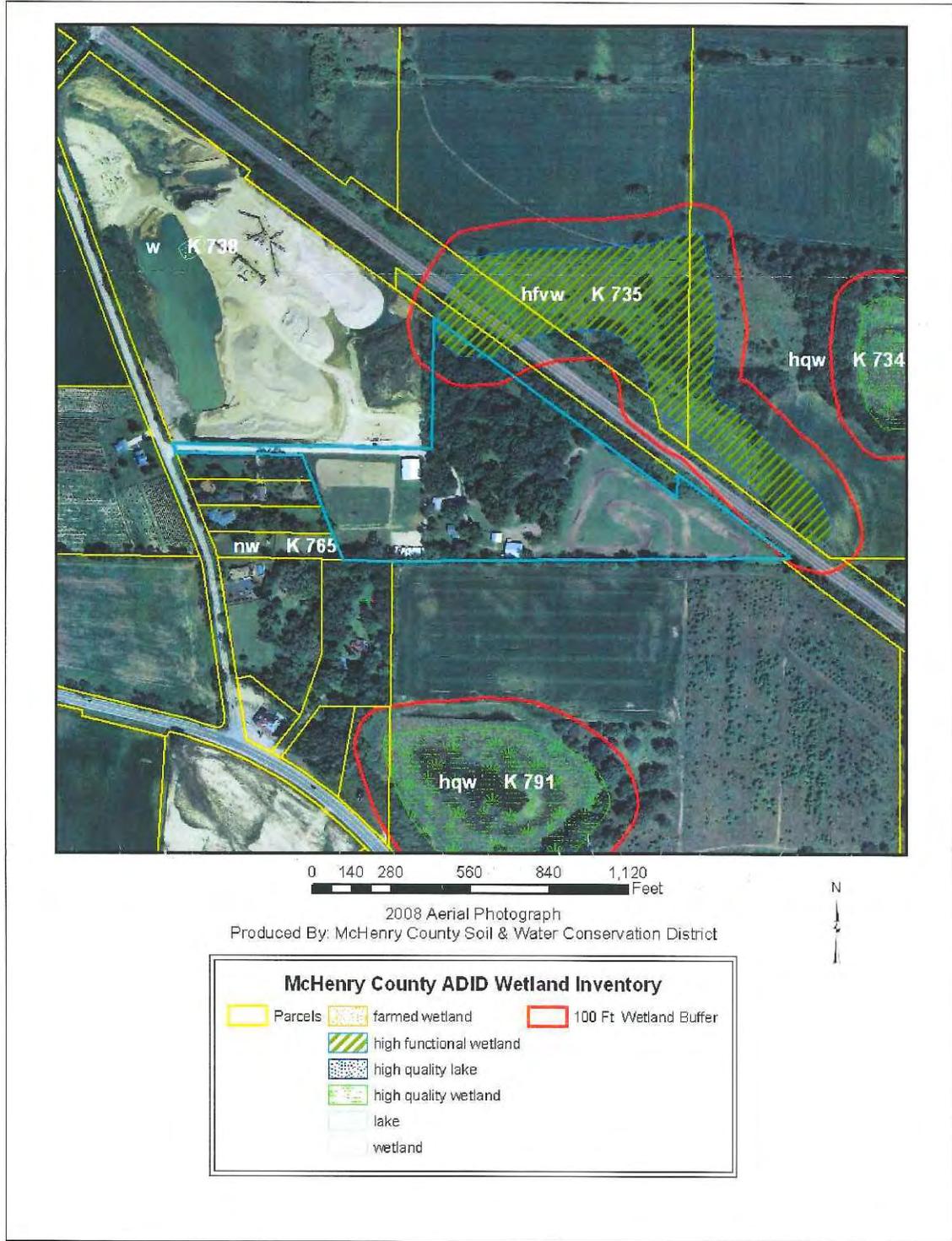
cc. McHenry County Department of Planning and Development

Resources for the Future

McHENRY COUNTY SOIL & WATER CONSERVATION DISTRICT



1648 S. Eastwood Dr. Woodstock, Illinois 60098 (815) 338-0099 ext. 3 Fax (815) 338-7731



Resources for the Future



ZONING BOARD OF APPEALS REPORT

TO THE MCHENRY COUNTY BOARD

PETITION #: 10-37

1. **Petitioner:** Jefferson and Jodie Clow
 2. **Request:** Conditional Use Permit to allow for the distribution of household goods, a food pantry and new signage at Dowell Road on the PIQ. Petitioner also requests a variation of the requirement of the Zoning Ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for the 2-way ingress and egress from the street to the parking lot.
(Note: "Firewood production and sales" was struck from the request at the hearing.)
 3. **Location and size of property in question:** The subject property consists of approximately 7.5 acres and is located approximately 1,500 feet northeast of the intersection of Dowell Road and Jordan Lane in Nunda Township, McHenry County, Illinois, with a common address of 120 Dowell Road, McHenry, Illinois.
 4. **Date and time of hearings:** December 22, 2010 and January 26, 2011 @ 1:30 PM
Date and time of the voting meeting: March 16, 2011 @ 9:30 AM
 5. **Location of hearing and voting meeting:** McHenry County Administration Building, 667 Ware Road, Woodstock, Illinois 60098, Conference Room B
 6. **Present at hearing:**
 - A. ZBA Members: Chairman Richard Kelly Jr., Elizabeth Scherer, Linnea Kooistra, Edward Haerter (*not present for vote*), Vicki Gartner, David Stone, Charles Eldredge
 - B. Witnesses: Steve Monaco, Jefferson Clow, Jodie Clow
 - C. Attorney: (*January 26, 2011 only*): Kenneth T. Kubiesa on behalf of the Petitioners; Brent O. Denzin (on behalf of the Village of Island Lake
 - D. Public (*December 22, 2010*): Sean Foley - County Staff, Kim Kolner - County Staff, Darrell Moore - County Staff, Jason Geist, Rick Cowart, Jeannette Boening, Nick Cerino, Yousef Dabhah, Richard Liverette, Brent Denzin, Frank DeSort, Jeanna Choi, Mary Ann McNamara;

Public (*January 26, 2011*): Kim Kolner - County Staff, Mimi Moy, Chris Morris, Ashley Morris, Gigi Livieritte, Rick Cowart, Brent Denzin, Cory Scott, Nick Cerino, Jennie Morris, Vanessa Morris, Richard Livieritte, Neil Zamet, Jeannette Boening, Mary Ann McNamara,
- Items of evidence:** Schedule of Operations, Faith Acres Foundation Community Sharing Partners, Northern Illinois Food Bank letter, letters of support, Prairie Wood Homeowners Association letter and response by the Petitioners

7. **SUMMARY OF TESTIMONY AT HEARING (December 22, 2010):**

Chairman Kelly opened the hearing and stated that the Petitioners were before the Board requesting a Conditional Use Permit to allow for the distribution of household

goods and a food pantry, new signage at Dowell Road, and firewood production and sales on the PIQ. Petitioner also requests a variation of the requirement of the Zoning Ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for the 2-way ingress and egress from the street to the parking lot.

Steve Monaco stated that he is on the Board of Directors for Faith Acres. He is a licensed architect in the State of Illinois. Describing Faith Acres, Mr. Monaco stated that the Clow family purchased the subject property that had a garden on it and had begun to share food with friends and family, which soon grew to other organizations like churches and food pantries. Mr. Monaco indicated that Faith Acres, a nonprofit organization, receives food and goods donations from multiple businesses and is offered volunteer help from Boy Scouts and Girl Scouts. The Petitioners are not asking for any retail sales from the property. However, they are asking to be able to split wood on the property to sell from the site.

Mr. Monaco stated that pickup trucks and vans are used to pick up food from stores, which is then either delivered directly to organizations or brought back to the subject property to be sorted. Monday through Thursday afternoons, organizations come to the site to pick up the food to be distributed off-site. On Fridays, by appointment, families come to the site between 11:00 a.m. and 3:00 p.m. to share food and clothing.

A Conditional Use Permit currently exists on the property to allow two dwelling units, which are contained within one residential structure. In addition to the home, the property contains a detached garage, which is where the proposed operation would take place. Operations were previously conducted from the attached garage on the property. Currently, the detached garage is frame construction, and the Petitioners have been in contact with the Department of Planning and Development to discuss the commercial codes that may be required to be met. A 10' x 60' open shed roof is also proposed to be extended off the rear of the existing garage that would be used for overflow storage. Everything else would be contained within the 38' x 60' garage, which is labeled as a multi-use building on the site plan.

In addition to the existing structures and the proposed addition to the garage, a future pavilion was noted on the site plan. Mr. Monaco stated that this would be used for gatherings on the property.

Linnea Kooistra asked about the proposed wood-splitting on site. Mr. Clow stated that there are six-foot and eight-foot long timbers that have been dropped on the property. He noted that he uses the split wood to heat his own home, but he would like to sell wood to other people to bring in some income. Mr. Clow noted that there is a log splitter on site that he uses once or twice per week. The wood-splitting area would be approximately 25' x 25' and located north of the residence. Per Staff recommendations, the Petitioners would be willing to move that area further east to be further from the residential area.

Charles Eldredge noted that the Village of Island Lake had submitted a letter in which the refer to 40 or more parked vehicles on the subject property. Mr. Monaco stated that all but one of the vehicles have since been removed. They had been kept on site on a temporary basis for a neighbor. When the Petitioners found out that was in conflict with the Ordinance, they were removed. They had been on site for three to six months.

Some of the neighboring property owners asked about the vehicles that had been stored on-site. Mr. Clow indicated that they had been removed as of the morning of the hearing. Staff noted that they would conduct another inspection to verify compliance.

Brent Denzin, an attorney for the Village of Island Lake, stated that they would like to present evidence, but are still in the process of gathering more information and concerns from surrounding neighbors. They requested that the hearing be continued for further comments.

Rick Cowart, a resident of Prairie Woods Subdivision, stated that a petition was circulated and signed by homeowners surrounding the subject property. The petition expressed concerns such as traffic, particularly dust, dirt and noise. Homeowners in Walnut Glen, which abuts the subject property, are also very concerned about noise from splitting logs and potential for runoff if any gasoline is to be used in that operation.

Chairman Kelly stated that a letter had been received from Donald Kopsell from the Nunda Township Road District, objecting to the proposed Conditional Use. He believes that the traffic at the intersection of Dowell Road and River Road is too high for this type of use.

Jeannette Boening, of 108 West Dowell Road, stated that she had some concerns. She stated that the Petitioners are burning garbage in their yard, which is blowing toward her home. Ms. Boening also submitted three objection letters, from Michael Cussman, Anna Linvingston and Kim Whitman.

Nick Cerino spoke in favor of the Petitioners. He noted that they open their home to others and provide food and clothing to those who need it, putting others' needs above their own.

SUMMARY OF TESTIMONY AT HEARING (January 26, 2011):

Chairman Kelly called the meeting to order and explained that discussions with Staff indicated that the Petitioners would be striking the request for firewood production and sales on site. Ken Kubiesa, an attorney representing Faith Acres Foundation, stated that there would be no commercial wood cutting on-site and that the future pavilion has been removed from the site plan. The amended site plan was submitted.

A Schedule of Operations was submitted as an exhibit. The exhibit estimates the amount of traffic that would be coming in and out of the subject property. Another exhibit outlined Faith Acres Foundation Community Sharing Partners, which provided names of partners that deal with the food pantry. An exhibit was also submitted from Northern Illinois Food Bank. The letter they submitted supports the proposed use and states that the most recent inspection of the operation was in compliance with their requirements. Lastly, there were 63 letters of support that had been emailed to the Department of Planning and Development and a list of 600 signatures in support of the proposed Conditional Use.

Jodie Clow stated that three letter had been submitted from neighbors in support of the proposed use. One neighbor from across the street indicated that the Petitioners

have never created loud noise with trucks or been a bother. Two other neighbors noted that they were in favor of the request, and Mike Kooi stated that the Petitioners were quiet, polite and respectful.

Mr. Kubiesa, addressed the traffic concerns that some of the neighbors had brought up. He indicated that there would be far less traffic than there would be in a subdivision as is planned for in that area. There would be 10-15 movements in and out of the property 4 days per week. Mr. Kubiesa felt that all of the Standards for Conditional Use could be met.

A letter sent out by the Prairie Woods Homeowners Association was submitted as an exhibit. Ms. Clow pointed out that some of the information within the letter was inaccurate and noted that these inaccuracies were addressed in an additional exhibit, including a statement that the Petitioners intended to conduct a sawmill on-site.

Mimi Moy, from McHenry, stated that she has been at Faith Acres as a volunteer since 2008. She noted that as a volunteer, she helps to clean, take in donations and store them properly, and distribute them. Ms. Moy stated that she has never seen commercial vehicles on the property or the exchange of cash.

Neil Zamet, who lives in Prairie Woods across the street from the subject property, stated that, while it is commendable that the Petitioners want to have a food pantry, he does not feel that a residential area is appropriate for that type of use.

Gigi Livieritte stated that she has been with the food pantry since it started and feels there is always a need for food pantries and that they are trying to help people as best they can. Richard Livieritte indicated that one thing that makes this food pantry unique is that there is a lot of fresh produce and healthy options as opposed to many food pantries that carry only boxed and canned foods. Jennie Morris spoke in favor of the request, noting that the Petitioners help people emotionally, spiritually and physically and that they care about the people that they deal with.

Brent Denzin spoke on behalf of the Village of Island Lake, noting that there was concern that the proposed use is incompatible with the area. He stated that, if the request is approved, the Village would like to see conditions limiting things like noise and number of people allowed on site. Mr. Denzin stated that he does feel there is a need for more food pantries, but he did not feel that the subject property is an appropriate location for one.

Chairman Kelly stated that the Endangered Species Consultation process had been terminated. The Soil and Water Conservation District report had been received, and they indicated a full report would not be necessary.

- 8. Planning & Development Department Staff Report-Comments and Conclusions:**
The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

Conditional Use Request

These Conditional Use requests are compatible with the surrounding land use of vacant and agricultural, however not compatible with the surrounding single-family residential use. The requested conditional uses will not affect the current zoning, which is *A-1C Agriculture*. There is little text from the *2030 Plan* text that relates to the request. The request will not be removing active farm land production, and will have minimal affect on water resources due to the nominal proposed impervious surfaces. The requested conditional uses are not consistent with the *2030 Future Land Use Map* designation of RESIDENTIAL.

The petitioner must provide evidence in the hearing that the proposed use will meet the requirements set forth in the *2000 McHenry County Zoning Ordinance* for a Conditional Use within the *A-1C Agriculture* zoning district.

Variation Request

The petitioner is requesting a variation from the requirements of the zoning ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for two-way ingress and egress from the street to the parking lot. This request is necessary in order to use the driveway for two-way traffic under its current configuration.

BACKGROUND

In 2007 a Conditional Use to allow a second residence on the property in question was approved, by Petition #06-60. The PIQ is approximately 7.5 acre in area (PIN 15-17-226-005, 15-17-226-007, 15-08-476-002). Structures on the site include a split-level frame & brick residence, and a 38' x 60' frame garage. A gravel driveway leads up to the structures from the road.

STAFF ANALYSIS – CONDITIONAL USE REQUEST

The purpose of the Conditional Use is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

1) Current Land Use:

The requested Conditional Uses are not compatible with the Single-Family Residential uses to the north and west of the PIQ. However, the requests are compatible with the Vacant and Agricultural Uses to the south and east of the PIQ.

2) Zoning:

The requested conditional uses will not affect the current zoning, which is *A-1C Agriculture* district with a conditional use permit for a second residence on the property in question.

3) 2030 Comprehensive Plan text:

The proposed conditional uses are located within a Sensitive Aquifer Recharge Area however should have minimal impact on the water resources due to the nominal amount of new impervious services. The PIQ is not being used for farm land. Therefore, the proposed use would not be removing productive farm land.

4) 2030 Comprehensive Plan Future Land Use map:

The requested conditional used are not consistent with the map designation of RESIDENTIAL.

5) Environmental Factors:

According to the SARA map, the PIQ does have a high potential for aquifer contamination. The PIQ does not contain any wetlands, floodplains or floods-of-record. The McHenry County Soil and Water Conservation District Natural Resources Inventory report was not received at the time this report was written. Please refer to L10-046-3630 for more information. The Illinois Department of Natural Resources (IDNR) indicated that additional information is needed to determine if the project will have an adverse impact on protected state resources.

NOTES

- All requirements of Article 5, Section 502.3 STANDARDS FOR CONDITIONAL USE must be met, and
- All requirements of Article 7, Section 703 STANDARDS FOR VARIATIONS must be met.
- Staff will have additional comments based upon the testimony presented during the public hearing.

9. **Soil and Water Conservation District Report:** For additional information refer to NRI L10-046-3630.

10. **Illinois Department of Conservation:** The consultation has been received.

11. **SUMMARY OF VOTING MEETING DISCUSSION:**

Chairman Kelly opened the voting meeting, and stated that there were nine proposed conditions:

- 1.) The Conditional Use Permit shall expire ten years from the date of approval by the McHenry County Board or at a time in which the distribution of household goods and food pantry are discontinued for a period of more than 12 consecutive months.
- 2.) The hours of operation shall be limited to the hours between 10:00 a.m. to 4:00 p.m. Monday through Wednesday and Friday through Saturday, and between 10:00 a.m. to 6:00 p.m. on Thursday.
- 3.) Parking and structures pertaining to the distribution of household goods and a food pantry shall be in substantial conformance to the attached site plan, date stamped January 24, 2011.
- 4.) Any structure or portion thereof to be used for the distribution of household goods or a food pantry must meet commercial building codes.
- 5.) Any signage proposed to be located on the property in question must meet the regulations of the McHenry County Sign Ordinance.
- 6.) Screening shall be located along the western property line in the areas indicated on the site plan, date stamped January 24, 2011, and shall comply with Section 308.3 of the McHenry County Zoning Ordinance.
- 7.) Deliveries pertaining to the distribution of household goods and a food pantry by semi-truck are prohibited.

- 8.) Remuneration received in connection with the distribution of food or household goods shall be limited to donations. Commercial sales shall be prohibited.
- 9.) All applicable federal, state and local laws shall be met.

The Board voted to amend #8 to "Retail sales shall be prohibited." Charles Eldredge made a motion to approve the nine proposed conditions, as amended. Elizabeth Scherer seconded the motion. The Board voted 6-0 to approve the conditions. Mr. Eldredge made a motion to recommend approval of the request, subject to the approved conditions. Vicki Gartner seconded the motion. Mr. Eldredge stated that, while he believes that the Petitioners are good people trying to do a good thing, he does not feel that the subject property is a good location for the requested use. Ms. Scherer indicated that she is concerned that the business may get out of hand. She believes the approval of a sign may open up the business to a larger group of people than what is intended. She also does not feel that the Standards for Variation could be met. Ms. Gartner noted that the proposed use would benefit the community and the County. Dave Stone stated that the proposed use does not fit in with the existing or planned future development of the area. Linnea Kooistra commended the Petitioners for the work that they would like to do, however she felt that it would not be compatible with the area, which is residential. She also noted that the area contains a high potential for aquifer contamination. Chairman Kelly stated that he felt the use was unique and compared the work the Petitioners do to that of a Church, which would be allowed in any zoning district (with a Conditional Use).

12. Facts that support recommending *approval* of the request:

- 1.) The proposed use is unique.
- 2.) There is a need in the area for the requested use.

13. Facts that support recommending *denial* of the request:

- 1.) There was opposition from several neighbors, as well as the Village of Island Lake.
- 2.) Some Board members were concerned about the potential growth of the business.
- 3.) The proposed use is not compatible with other uses in the area.

14. Motion: Made by Charles Eldredge, seconded by Vicki Gartner for a Conditional Use Permit to allow for the distribution of household goods and a food pantry, new signage at Dowell Road, and firewood production and sales on the PIQ. Petitioner also requests a variation of the requirement of the Zoning Ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for the 2-way ingress and egress from the street to the parking lot, subject to the following conditions:

- 1.) The Conditional Use Permit shall expire ten years from the date of approval by the McHenry County Board or at a time in which the distribution of household goods and food pantry are discontinued for a period of more than 12 consecutive months.
- 2.) The hours of operation shall be limited to the hours between 10:00 a.m. to 4:00 p.m. Monday through Wednesday and Friday through Saturday, and between 10:00 a.m. to 6:00 p.m. on Thursday.

- 3.) Parking and structures pertaining to the distribution of household goods and a food pantry shall be in substantial conformance to the attached site plan, date stamped January 24, 2011.
- 4.) Any structure or portion thereof to be used for the distribution of household goods or a food pantry must meet commercial building codes.
- 5.) Any signage proposed to be located on the property in question must meet the regulations of the McHenry County Sign Ordinance.
- 6.) Screening shall be located along the western property line in the areas indicated on the site plan, date stamped January 24, 2011, and shall comply with Section 308.3 of the McHenry County Zoning Ordinance.
- 7.) Deliveries pertaining to the distribution of household goods and a food pantry by semi-truck are prohibited.
- 8.) Retail sales shall be prohibited.
- 9.) All applicable federal, state and local laws shall be met

15. Vote: 2 - AYES; 4 - NAYS; 0 - ABSTAIN

Elizabeth Scherer - Nay
Linnea Kooistra - Nay
Dave Stone - Nay
Vicki Gartner - Aye
Charles Eldredge - Nay
Rich Kelly - Aye

GOES TO COUNTY BOARD WITH NO ZBA RECOMMENDATION.

1 MS. SCHERER: Yes.

2 CHAIRMAN KELLY: Mrs. Kooistra?

3 MS. KOOISTRA: Yes.

4 CHAIRMAN KELLY: Mr. Stone?

5 MR. STONE: Yes.

6 CHAIRMAN KELLY: Ms. Gartner?

7 MS. GARTNER: Yes.

8 CHAIRMAN KELLY: Mr. Eldredge.

9 MR. ELDREDGE: Yes.

10 CHAIRMAN KELLY: I'll vote yes. The
11 conditions will be recommended 6 to 0. At this
12 time I would take a motion with regard to the
13 proposed conditional use subject to those nine
14 conditions.

15 MR. ELDREDGE: So moved for the purpose of
16 discussion.

17 MS. GARTNER: I'll second.

18 CHAIRMAN KELLY: Motion by Mr. Eldredge,
19 seconded by Ms. Gartner. Discussion,
20 Mr. Eldredge?

21 MR. ELDREDGE: Well, I'm very conflicted
22 about this. I'm absolutely convinced that these
23 are good people trying to do a good thing. I am
24 not convinced that this is a good site for that.

1 And the property is very sensitive ecologically,
2 and I'm concerned that any more intensive use
3 than it already has is going to put stress,
4 ecological stress in the area that doesn't need
5 to be there.

6 I am not concerned about the
7 driveway or the sign. I think that that -- those
8 are perfectly fine, and I don't see an issue.
9 Frankly, I'm not terribly concerned about traffic
10 coming and going off outside the property. My
11 sole concern really is the site itself, and I'm
12 not certain at this moment how I'm going to vote,
13 but I'm inclined to vote no.

14 CHAIRMAN KELLY: And just for the record, I
15 needed to specify that the petitioner does want
16 to go ahead today with the six votes, correct?

17 MR. MONACO: Yes.

18 CHAIRMAN KELLY: Can you identify yourself
19 for the court reporter, please?

20 MR. MONACO: Steve Monaco.

21 CHAIRMAN KELLY: And you understand five
22 votes is what you need for the county board.
23 Okay. Thank you, Mrs. Scherer?

24 MS. SCHERER: I'm conflicted on this one,

1 also. One of the things that's bothering me is
2 what wasn't bothering Charlie is the sign. My
3 biggest concern here is that this is going to get
4 way out of hand. Anybody that's been near a food
5 pantry when they open their doors can understand
6 what I'm saying here. The sign bothers me from
7 the standpoint that this is going to open it to a
8 much larger group of people than those that were
9 initially intended.

10 I, too, feel that the people
11 involved here are trying to do a very good thing,
12 have wonderful intentions, but the property also
13 bothers me. I believe that they can't meet the
14 standards of 703 with regard to the variation.

15 We had a letter from Island Lake,
16 which stated that they were confused about the
17 scope of the uses on the property, and I can
18 honestly say that after having been to the
19 hearing, that I'm a little confused on that,
20 also. I just see tremendous potential for this
21 to get way out of hand. We have no way to limit
22 the number of people that come to the site. We
23 have no way of limiting that they even be McHenry
24 County residents. I just I'm very concerned

1 about that, and I'm still listening, also.

2 CHAIRMAN KELLY: Thank you. Ms. Gartner?

3 MS. GARTNER: Well as everybody else has,
4 I've had my, you know, yes and no feelings about
5 this as well, and I think because it's a very
6 different use than we've been seeing; however, of
7 all the conditional uses that have come through,
8 I'd have to say that this is the one that would
9 benefit the community and the county more than
10 anything else that I've seen come through. So I
11 do feel very positive about that aspect of it.
12 It is good for the county.

13 I am trusting that the traffic
14 coming and going for these particular items are
15 going to be, continue to be seen only on
16 appointment, and not, you know, masses coming on
17 any given morning like an open house. And so
18 although I am a little conflicted, there's a few
19 things that are troublesome to me, but I'm more
20 inclined to vote yes at this point.

21 CHAIRMAN KELLY: Thank you. Mr. Stone?

22 MR. STONE: Well I guess I'm clearly going
23 to vote no for much of the same reasons that have
24 already been discussed, but in addition to that,

1 one of the conditions is that the petitioner has
2 demonstrated the ability to meet the requirements
3 listed in the section covering individual
4 conditional uses, and I've kind of expanded that
5 in my mind.

6 I just -- the whole thing kind of
7 concerns me, that we get into these situations
8 where people start doing things on their property
9 that don't comply with ordinances and then come
10 in and ask for changes in order to continue the
11 practice, and this particular petitioner, there
12 seems to be conflicting evidence about why he had
13 up to 40 cars on the property, and it was more or
14 less using it as -- the implication was he was
15 using it as a used car lot. While the evidence
16 isn't perfectly clear, it just seemed strange
17 that he would allow that particular use, knowing
18 that it's not allowed.

19 And also, the standards say the
20 ~~site shall be situated so that the proposed use~~
21 is compatible with the existing or planned future
22 development of the area. This just doesn't fit
23 here. We've got a residential subdivision to the
24 west. In fact all residential going to the west;

1 farmland that obviously is going to the east
2 that's going to be developed into residential.
3 It's a residential area.

4 I understand that this particular
5 petitioner would like to work out of his home,
6 but the fact of the matter is that there's been a
7 foundation created, and apparently some interest
8 in keeping his operation going, and it seems to
9 me it'd be just much wiser to put this in a
10 rental area in Island Lake, which is nearby, and
11 in a place where these kinds of things are done.
12 For that reason, I'm -- this one I'm not on the
13 fence, I'm going to vote no.

14 CHAIRMAN KELLY: Okay. Ms. Kooistra?

15 MS. KOOISTRA: First of all, I have to
16 commend the petitioner for just doing such a
17 wonderful service for the community. It's a very
18 necessary service. We need more people like you
19 in McHenry County.

20 The thing with zoning, though, is
21 the land use, the use in the location. Is it in
22 the proper location. And under our conditional
23 use standards, the intent for conditional uses is
24 to look at those uses that are unique, and then

1 to look -- we must look in each case that the
2 impact of those uses among neighboring land uses
3 and on the public need for this use at this
4 location. And then as well, we have the specific
5 standards that we need to look at regarding your
6 petition.

7 Now I know in the testimony, it was
8 stated that there is a public need for this, but
9 you also stated that you never looked anyplace
10 else to see if there was anyplace else that you
11 could locate, and as a board, we do have to look
12 at the natural resources, we do have to look at
13 the neighboring uses, and my feeling is that this
14 just does not comply with Point No. 2, that this
15 site must be situated so that this use is
16 compatible with the existing or planned future
17 development of the area, because this is
18 residential.

19 And I know it was stated in the
20 testimony that these other food pantries, they
21 have a lot of lines, you know, because so many
22 people are coming because the need is so great,
23 and that's what you're trying to fill, but also
24 with this as this grows, as more people are aware

1 of this, your traffic is going to grow, too, and
2 with a sign out front that's advertising this
3 use, there's going to be even more traffic, and I
4 just don't feel like this will be compatible in
5 this area, that this fits that.

6 As well we have natural resources
7 that we need to protect, and this is a very
8 fragile area as far as it's called a high
9 potential for aquifer contamination. It's a
10 strategic -- it's called a SARA, and now my mind
11 is -- it's an aquifer recharge area. So whatever
12 happens on the surface of the ground can greatly
13 impact the quality of the groundwater underneath.
14 And so because of this, we have to be really
15 careful as to what's going on in this -- Whether
16 it's nonprofit or not, this is a business use of
17 this property.

18 And so I'm going to have to vote
19 no, even though I greatly support what you're
20 trying to do. I hope that, you know, if this
21 does not pass, that you can find another location
22 that you can continue this. So I have to vote
23 no.

24 CHAIRMAN KELLY: Thank you. You know, I

1 take a different angle on this. I think that
2 this is really unique, this use, and I think it's
3 a burden to put on someone that's trying to do a
4 use that's for the public like this, that is to
5 try to tell them to go into retail or expensive
6 zoning district.

7 When I look at the other types of
8 groups that do this kind of type of situation,
9 you know, food pantries, would be churches or
10 townships and things or schools that would be
11 running these type of things, and those can be in
12 any district, whether it be residential or
13 agricultural. You can build a church anywhere.

14 So I take a completely different
15 view. I think this is a really unique use, and I
16 believe a food pantry could fit into any
17 neighborhood based on the situation.

18 I think the terms of this one
19 are -- that they are asking for are very limited
20 as far as what hours they want to do and the
21 intensity it's going to be on the neighborhood,
22 and I think the overall benefit to the county and
23 to the public is so high here that it would
24 outweigh any kind of very minor impact that it's

1 going to have on the neighborhood, based on what
2 else could go to these types of situation -- you
3 know, areas where you could put a school or a
4 church that would be doing the same type of
5 thing.

6 So I'm in favor of the petition. I
7 believe they have addressed all the standards.
8 So I'm taking the opposite side, I believe.
9 Mrs. Scherer, you had another comment?

10 MS. SCHERER: I did. One of the things
11 here, my greatest concern that this is going to
12 get out of control. I kind of envisioned myself,
13 you know, running this, and I know that they have
14 said that what they are doing right now is by
15 appointment. What are they going to do if 50 or
16 60 people show up at a time, at one time, because
17 they've got the sign out in front.

18 I had one other point that I wanted
19 to make. Oh, and the fact that this is not just
20 a food pantry. This is a food and furniture and
21 refrigerator and -- you know, which is why I
22 think it belongs in a business type zoning. I
23 could even see this better at some of the -- at a
24 church or a school or some of the things that

1 Mr. Kelly talked about. But my concern here is
2 that it's going to get out of hand, and I don't
3 know what remedy the petitioner has if it does.
4 I haven't heard anything to change my mind with
5 regard to this.

6 MR. ELDREDGE: Could I add a comment?

7 CHAIRMAN KELLY: Go ahead.

8 MR. ELDREDGE: I agree with Mr. Kelly that
9 this is a use suitable for almost any zoning
10 district. My concern really is that this is a
11 parcel of land that I don't think is suitable for
12 an intensive use, and I think that this is going
13 to become an intensive use for some of the
14 reasons that other folks have indicated here.
15 And I certainly, if I were these folks, I would
16 look for a donated location, as most food
17 pantries do have, a donated location that they
18 don't pay rent. But I just I'm very
19 uncomfortable with this site.

20 CHAIRMAN KELLY: Thank you. At this time
21 I'll call for the vote. Mrs. Scherer?

22 MS. SCHERER: No.

23 CHAIRMAN KELLY: Ms. Kooistra?

24 MS. KOOISTRA: No.

1 CHAIRMAN KELLY: Mr. Stone?

2 MR. STONE: No.

3 CHAIRMAN KELLY: Mrs. Gartner?

4 MS. GARTNER: Yes.

5 CHAIRMAN KELLY: Mr. Eldredge?

6 MR. ELDREDGE: No.

7 CHAIRMAN KELLY: And I will vote yes. This

8 will go to the County Board with a 2-to-4 vote.

9 At this time the hearing is closed.

10

11

12 (Which were all the
13 proceedings had in
14 said matter on said date.)

14

15

16

17

18

19

20

21

22

23

24

IN THE MATTER OF THE APPLICATION)
OF JEFFERSON AND JODIE CLOW, THE SOLE)
BENEFICIARIES OF THE CLOW FAMILY 2002 TRUST)
FOR AN AMENDMENT OF THE ZONING ORDINANCE)
OF McHENRY COUNTY, ILLINOIS)
FOR A CONDITIONAL USE PERMIT)

#10 - 37

WHEREAS, your Petitioners *JEFFERSON & JODIE CLOW*, THE SOLE BENEFICIARIES OF THE CLOW FAMILY 2002 TRUST have filed a petition with the McHenry County Zoning Board of Appeals requesting the issuance of a Conditional Use as it relates to the McHenry County Zoning Ordinance, and of such Ordinance as amended, as it relates to the real property more fully described as:

Permanent Parcel Index Numbers are: 15-17-226-005; 15-17-226-007; 15-08-476-002

More commonly known as 120 Dowell Road, McHenry, Illinois

LEGAL DESCRIPTION:

PARCEL 1: That part of the Northeast Quarter of Section 17, Township 44 North, Range 9 east of the Third Principal Meridian described as follows: Commencing at the Northeast corner of said Northeast Quarter; thence West along the North line of said Northeast Quarter, 732.40 feet; thence South at right angles to the last described line, 221.85 feet for a point of beginning; thence continuing South on the last described line, 473.15 feet; Thence East at right angles to the last described line, 230.70 feet; thence North at right angles to the last described line, 473.15 feet; thence West at right angles to the last described line, 230.70 feet to the place of beginning in McHenry County, Illinois.

PARCEL 2: That part of the Southeast Quarter of Section 8 and that part of the Northeast Quarter of Section 17, Township 44 North, Range 9 East of the Third Principal Meridian, in McHenry County, Illinois, bounded and described as follows: commencing at the Southeast corner of Section 8; thence Northerly along the east line of section 8 for a distance of 582.0 feet to a point, thence Westerly along a line at right angles to the last described course for a distance of 481.70 feet for a place of beginning; thence continuing Westerly along the last described course for a distance of 250.70 feet to a point; thence Southerly parallel to the East line of Section 8 for a distance of 803.85 feet to a point; thence Easterly at right angles to the last described course for a distance of 230.70 feet to a point; thence Southerly parallel to the East line of Section 8 for a distance of 824.10 feet to a point in the center of Dowell Road; thence Northeasterly along a line that forms an angle of 136 degrees 08 minutes measured to the left with a prolongation of the last described course for a distance of 28.86 feet to a point; thence Northerly parallel to the East line of said Section 8 for a distance of 1607.14 feet to the place of beginning, in McHenry County, Illinois.

WHEREAS, the Petition requests no reclassification of the subject property from its present classification which is "A-1C" *Agriculture*, but a Conditional Use Permit be granted to allow for the distribution of household goods, a food pantry and new signage at Dowell Road. Petitioner also requests a variation of the requirement of the zoning ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for the 2-way ingress and egress from the street to the parking lot.

WHEREAS, the subject property consists of approximately 7.5 acres in which no reclassification is contemplated.

WHEREAS, a hearing on said petition was held before the Zoning Board of Appeals of McHenry County in the manner and the form as prescribed by the Ordinance and Statute; and

WHEREAS, as a result of said hearing, the taking of evidence, and the viewing of exhibits advanced thereat, the Zoning Board of Appeals of McHenry County had no recommendation by a vote of 2 ayes and 4 nays, the granting of a Conditional Use to allow for the distribution of household goods, a food pantry and new signage at Dowell Road and a variation of the requirement of the zoning ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for the 2-way ingress and egress from the street to the parking lot on the property in question with the following condition(s):

1. The Conditional Use Permit shall expire 10 years from the date of approval by the McHenry County Board, or, at a time in which the distribution of household goods and a food pantry are discontinued for a period of more than twelve (12) consecutive months.
2. The hours of operation shall be limited to the hours between 10 a.m. to 4 p.m. Monday through Wednesday and Friday through Saturday, and between 10 a.m. to 6 p.m. on Thursday.
3. Parking and structures pertaining to the distribution of household goods and a food pantry shall be in substantial conformance to the attached site plan, date stamped January 24th, 2011.
4. Any structure or portion thereof, to be used for the distribution of household goods or a food pantry must meet commercial building codes.
5. Any signage proposed to be located on the PIQ must meet the regulations of the McHenry County Sign Ordinance.
6. Screening shall be located along the western property line in areas indicated on the site plan date-stamped January 24th, 2011 and shall comply with Section 308.3 of the McHenry County Zoning Ordinance.
7. Deliveries pertaining to the distribution of household goods and a food pantry by semi-truck are prohibited.
8. Retail sales shall be prohibited.
9. All applicable federal, state, and local laws shall be met.

WHEREAS, the McHenry County Board has considered the recommendation as submitted by the Zoning Board of McHenry County.

Whereas, the McHenry County Board has determined that the standards for a Conditional Use Permit as set forth in the McHenry County Zoning Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE BE IT ORDAINED, that the Zoning Ordinance and the Zoning Maps of McHenry County, and such Ordinances and such maps as amended, be and the same are hereby amended to allow the issuance of a Conditional Use to allow for the distribution of household goods, a food pantry, and new signage at Dowell Road and a variation of the requirement of the zoning ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for the 2-way ingress and egress from the street to the parking lot *on the property in question with the following condition(s):*

1. The Conditional Use Permit shall expire 10 years from the date of approval by the McHenry County Board, or, at a time in which the distribution of household goods and a food pantry are discontinued for a period of more than twelve (12) consecutive months.
2. The hours of operation shall be limited to the hours between 10 a.m. to 4 p.m. Monday through Wednesday and Friday through Saturday, and between 10 a.m. to 6 p.m. on Thursday.

3. Parking and structures pertaining to the distribution of household goods and a food pantry shall be in substantial conformance to the attached site plan, date stamped January 24th, 2011.
4. Any structure or portion thereof, to be used for the distribution of household goods or a food pantry must meet commercial building codes.
5. Any signage proposed to be located on the PIQ must meet the regulations of the McHenry County Sign Ordinance.
6. Screening shall be located along the western property line in areas indicated on the site plan date-stamped January 24th, 2011 and shall comply with Section 308.3 of the McHenry County Zoning Ordinance.
7. Deliveries pertaining to the distribution of household goods and a food pantry by semi-truck are prohibited.
8. Retail sales shall be prohibited.
9. All applicable federal, state, and local laws shall be met.

If any part, sentence, clause, or provision of this ordinance is adjudged to be unconstitutional or invalid, the remainder of this Ordinance shall not be affected thereby.

This Ordinance shall be in full force and effect from and after its passage as by law provided.

DATED this _____ day of _____, 2011

 Chairperson, McHenry County Board
 McHenry County, Illinois

ATTEST:

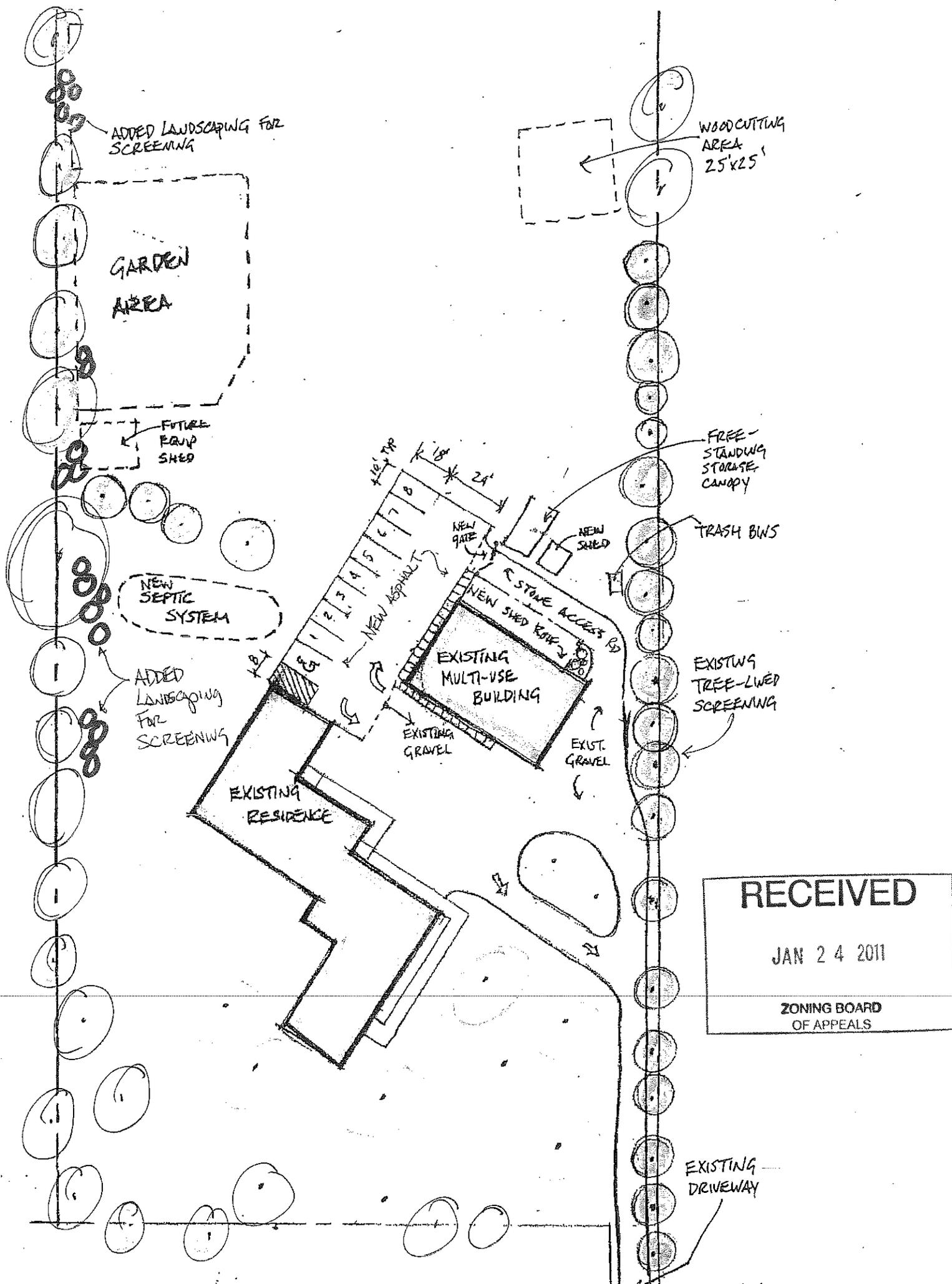
 County Clerk

NUMBER VOTING AYE: _____

NUMBER VOTING NAY: _____

NUMBER ABSTAINING: _____

NUMBER ABSENT: _____



ADDED LANDSCAPING FOR SCREENING

GARDEN AREA

FUTURE EQUIP SHED

NEW SEPTIC SYSTEM

ADDED LANDSCAPING FOR SCREENING

EXISTING RESIDENCE

EXISTING MULTI-USE BUILDING

EXISTING GRAVEL

EXIST. GRAVEL

NEW ASPHALT

NEW GATE

NEW SHED

NEW SHED KIKY

NEW STONE ACCESS RD

WOOD CUTTING AREA 25'x25'

FREE-STANDING STORAGE CANOPY

TRASH BINS

EXISTING TREE-LINED SCREENING

RECEIVED
 JAN 24 2011
 ZONING BOARD
 OF APPEALS

EXISTING DRIVEWAY

Staff Report for the McHenry County Zoning Board of Appeals

Petition: # 10-37

Hearing Date: December 15, 2010

Applicant: Jefferson & Jodie Clow as Trustees of the Clow Family 2002 Trust, owner of record. and

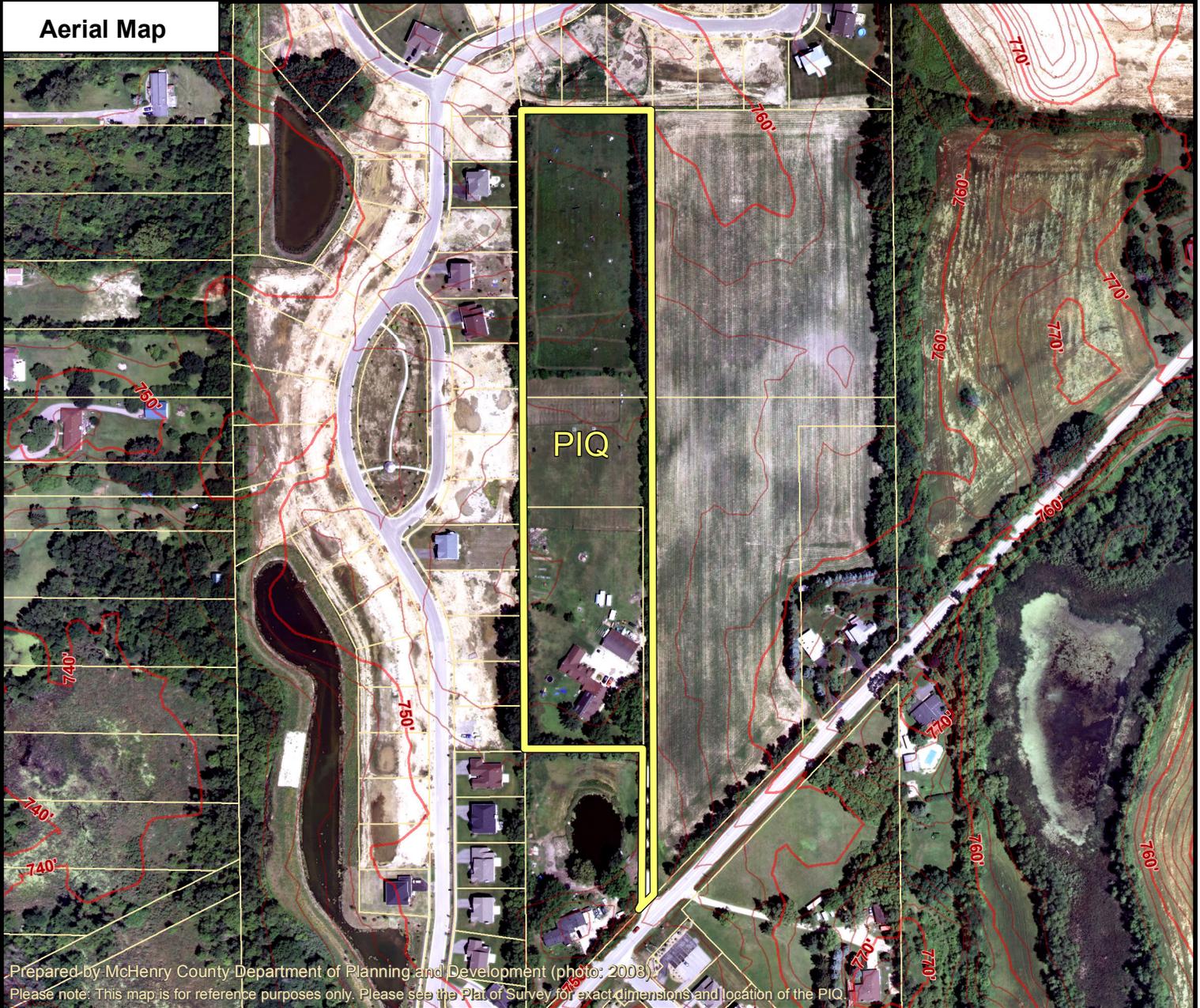
Request: Conditional Use to allow for the distribution of household goods and a food pantry, new signage at Dowell Road, ~~and firewood production and sale~~ on the PIQ. Petitioner also request a variation of the requirement of the zoning ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for the 2-way ingress and egress from the street to the parking lot.

Location: The Property in Question (PIQ) is approximately 7.5 acres in area and is located approximately 1500 feet northeast of the intersection of Dowell Road and Jordan Lane, in Nunda Township.

Address: 120 Dowell Road, McHenry, IL, 60050

PIN: 15-17-226-005; 15-17-226-007; 15-08-476-002

Aerial Map



Elevation

(feet above sea level)

- 10-foot contours
- 2-foot contours

Feet

1 inch equals 300 feet



Staff Report for the McHenry County Zoning Board of Appeals

STAFF COMMENTS

The following comments and conclusions are based upon staff analysis and review prior to this hearing and are to be considered viable unless evidence is established to the contrary. Staff may have additional comments based upon the testimony presented during the public hearing.

Conditional Use Request

These Conditional Use requests are compatible with the surrounding land use of vacant and agricultural, however not compatible with the surrounding single-family residential use. The requested conditional uses will not affect the current zoning, which is *A-1C Agriculture*. There is little text from the *2030 Plan* text that relates to the request. The request will not be removing active farm land production, and will have minimal affect on water resources due to the nominal proposed impervious surfaces. The requested conditional uses are not consistent with the *2030 Future Land Use Map* designation of RESIDENTIAL.

The petitioner must provide evidence in the hearing that the proposed use will meet the requirements set forth in the *2000 McHenry County Zoning Ordinance* for a Conditional Use within the *A-1C Agriculture* zoning district.

Variation Request

The petitioner is requesting a variation from the requirements of the zoning ordinance to allow a driveway width of 20 feet in lieu of the 24 feet required for two-way ingress and egress from the street to the parking lot. This request is necessary in order to use the driveway for two-way traffic under its current configuration.

BACKGROUND

In 2007 a Conditional Use to allow a second residence on the property in question was approved, by Petition #06-60. The PIQ is approximately 7.5 acre in area (PIN 15-17-226-005, 15-17-226-007, 15-08-476-002). Structures on the site include a split-level frame & brick residence, and a 38' x 60' frame garage. A gravel driveway leads up to the structures from the road.

STAFF ANALYSIS – CONDITIONAL USE REQUEST

The purpose of the Conditional Use is to establish standards for those uses which, because of their unique characteristics, cannot be properly classified in any particular district or districts, without consideration in each case of the impact of those uses upon neighboring land and of the public need for the particular use at the particular location.

1) Current Land Use:

The requested Conditional Uses are not compatible with the Single-Family Residential uses to the north and west of the PIQ. However, the requests are compatible with the Vacant and Agricultural Uses to the south and east of the PIQ.

2) Zoning:

The requested conditional uses will not affect the current zoning, which is *A-1C Agriculture* district with a conditional use permit for a second residence on the property in question.

3) 2030 Comprehensive Plan text:

The proposed conditional uses are located within a Sensitive Aquifer Recharge Area however should have minimal impact on the water resources due to the nominal amount of new impervious services. The PIQ is not being used for farm land. Therefore, the proposed use would not be removing productive farm land.

4) 2030 Comprehensive Plan Future Land Use map:

The requested conditional used are not consistent with the map designation of RESIDENTIAL.

5) Environmental Factors:

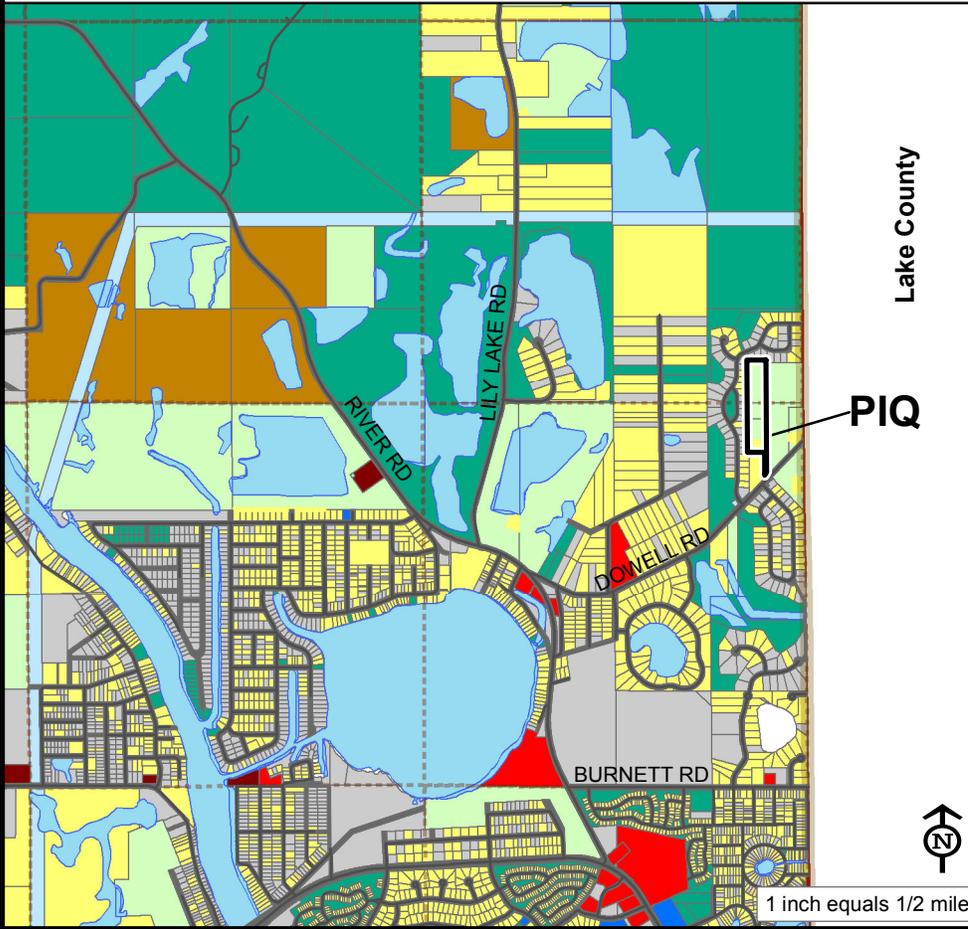
According to the SARA map, the PIQ does have a high potential for aquifer contamination. The PIQ does not contain any wetlands, floodplains or floods-of-record. The McHenry County Soil and Water Conservation District Natural Resources Inventory report was not received at the time this report was written. Please refer to L10-046-3630 for more information. The Illinois Department of Natural Resources (IDNR) indicated that additional information is needed to determine if the project will have an adverse impact on protected state resources.

NOTES

- All requirements of Article 5, Section 502.3 STANDARDS FOR CONDITIONAL USE must be met, and
- All requirements of Article 7, Section 703 STANDARDS FOR VARIATIONS must be met.
- Staff will have additional comments based upon the testimony presented during the public hearing.

Report prepared December 6, 2010 by Kimberly S. Kolner, Associate Planner
McHenry County Department of Planning & Development

Current Land Use Map



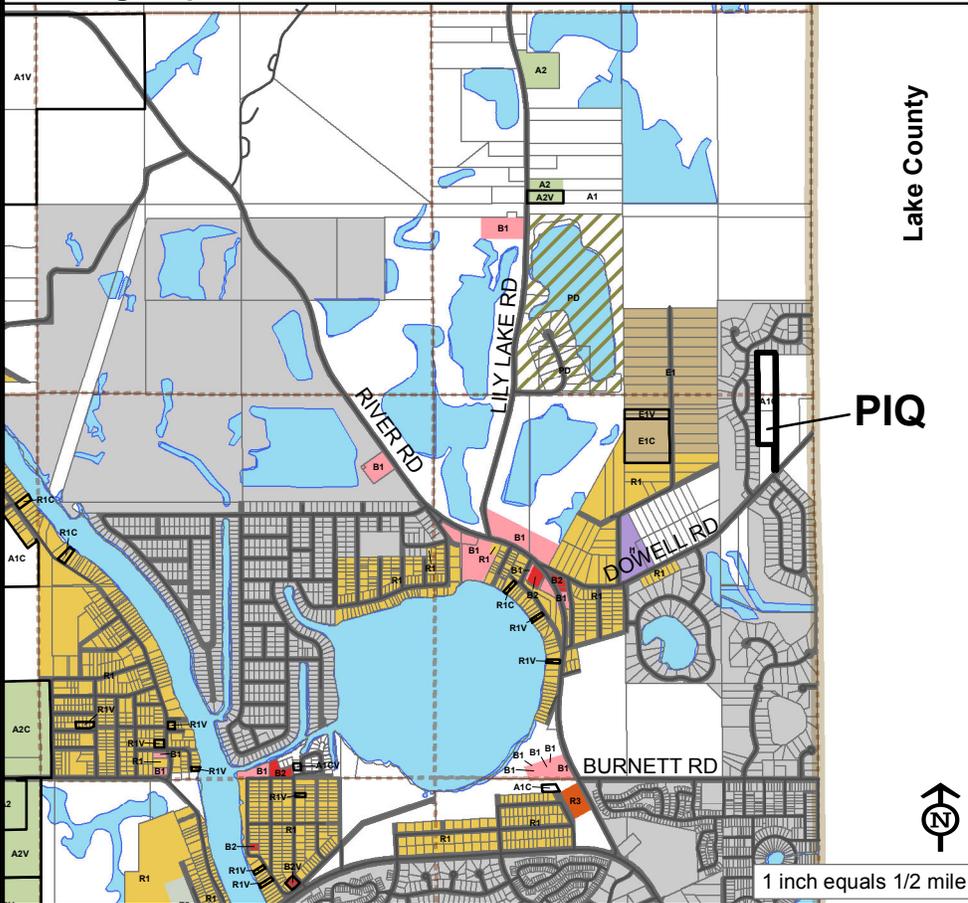
Current Land Use of the PIQ
Agriculture & Single Family

Land Use Adjacent to the PIQ

North: *Vacant*
 South: *Vacant & Single-Family*
 East: *Agriculture*
 West: *Single-Family*

- Agriculture
- MCCD Agriculture
- Single-Family Residential
- Multi-Family Residential
- Open Space
- Golf Course
- Commercial
- Office
- Industrial
- Mixed Use
- Earth Extraction
- Vacant
- Government / Institutional
- Transportation, Communication, Utilities

Zoning Map



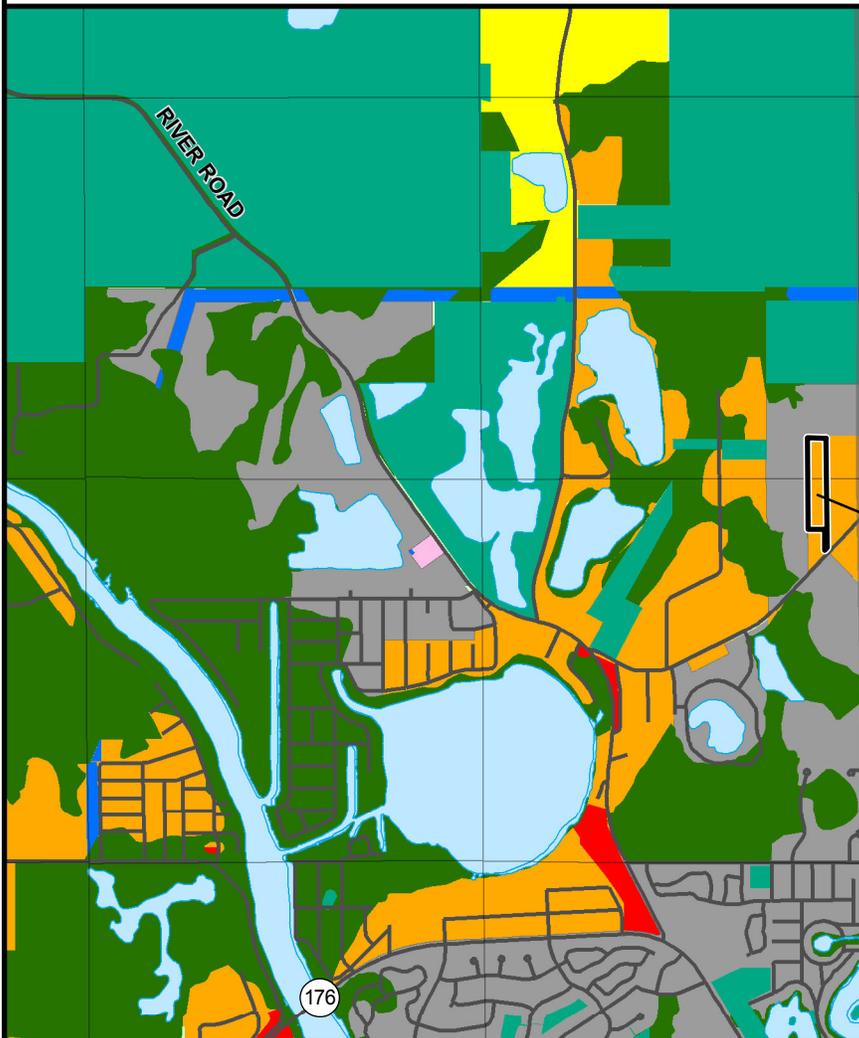
Current Zoning / PIQ:
A-1C Agriculture with a Conditional Use

Adjacent Zoning

North: Incorporated - Village of Island Lake
 South: A-1 Agriculture
 East: A-1 Agriculture
 West: Incorporated - Village of Island Lake

- A-1 Agriculture
- A-2 Agriculture
- E-5 Estate
- E-3 Estate
- E-2 Estate
- E-1 Estate
- R-1 Single-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- B-1 Neighborhood Business
- B-2 Liquour Business
- B-3 General Business
- O Office / Research
- I-1 Light Industry
- I-2 Heavy Industry
- PD Planned Development
- C Conditional Use
- V Variation
- Incorporated

McHenry County 2030 Comprehensive Plan Future Land Use Map



Lake County

PIQ

Future Land Use Map Designation

RESIDENTIAL

- Agricultural
 - Open Space
 - Environmentally Sensitive Area
 - Estate
 - Isolated Estate
 - Residential
 - Isolated Residential
 - Retail
 - Mixed Use
 - Office, Research, Industrial
 - Gov't, Institutional, Utilities
 - TOD Existing Rail Station
 - TOD Future Rail Station
 - Active Earth Extraction Site
 - Municipality
- Scale: 1 inch = 1/2 mile



Township Plan Designation

Nunda Township: Residential Conservation Development

Municipal Plan Designations

Lakemoor: None
 Island Lake: Single-Family
 Holiday Hills: None

McHenry County 2030 Comprehensive Plan – Text Analysis

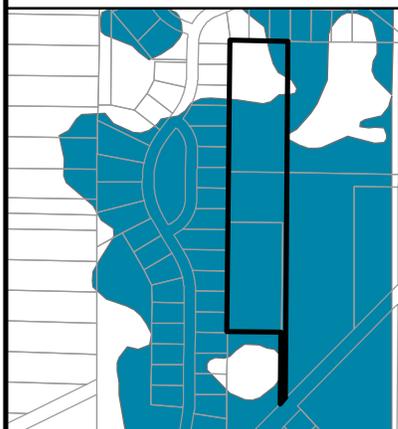
Land Use

Residential – includes existing and proposed areas for single-family and multifamily residential uses at gross densities of less than one acre per dwelling unit. Approximately 6% of the residential land use will consist of multifamily uses, such as apartment buildings and condominium buildings with common exterior entrances and interior hallways. Most single-family and nearly all multifamily residential development will occur following municipal annexation, particularly annexations in to municipalities that provide public sewer and water. (p. 135)

Sensitive Aquifer Recharge Areas

The site does contain “high contamination potential” zones. There are no wetlands, floodplains, or floods of record on the PIQ.

Sensitive Aquifer Recharge Areas (SARA)



- High Contamination Potential
- Moderate Contamination Potential

Community Character & Housing

The request does not involve any new housing and therefore no text is applicable.

Agricultural Resources

Objective: *"Maintain and protect the most productive agricultural lands, where appropriate, by discouraging nonagricultural growth in these areas."* (p. 29)

The Agriculturally zoned parcel is not actively being farmed. This use will not be removing any productive farm land.

Greenways, Open Space & Natural Resources

Objective: *"Promote land uses that... minimize the impact on land, water, energy, and other natural resources"...* (p. 43)

Water Resources

Objectives: *"Preserve, improve, and replenish the quality and quantity of existing groundwater resources."* (p. 63)

The site does contain a "high contamination potential" zones or *Sensitive Aquifer Recharge Area*. However, the PIQ does not contain any wetlands, floodplains or floods-of-record. There are nominal new impervious services and therefore minimal impact to the water resources.

Economic Development

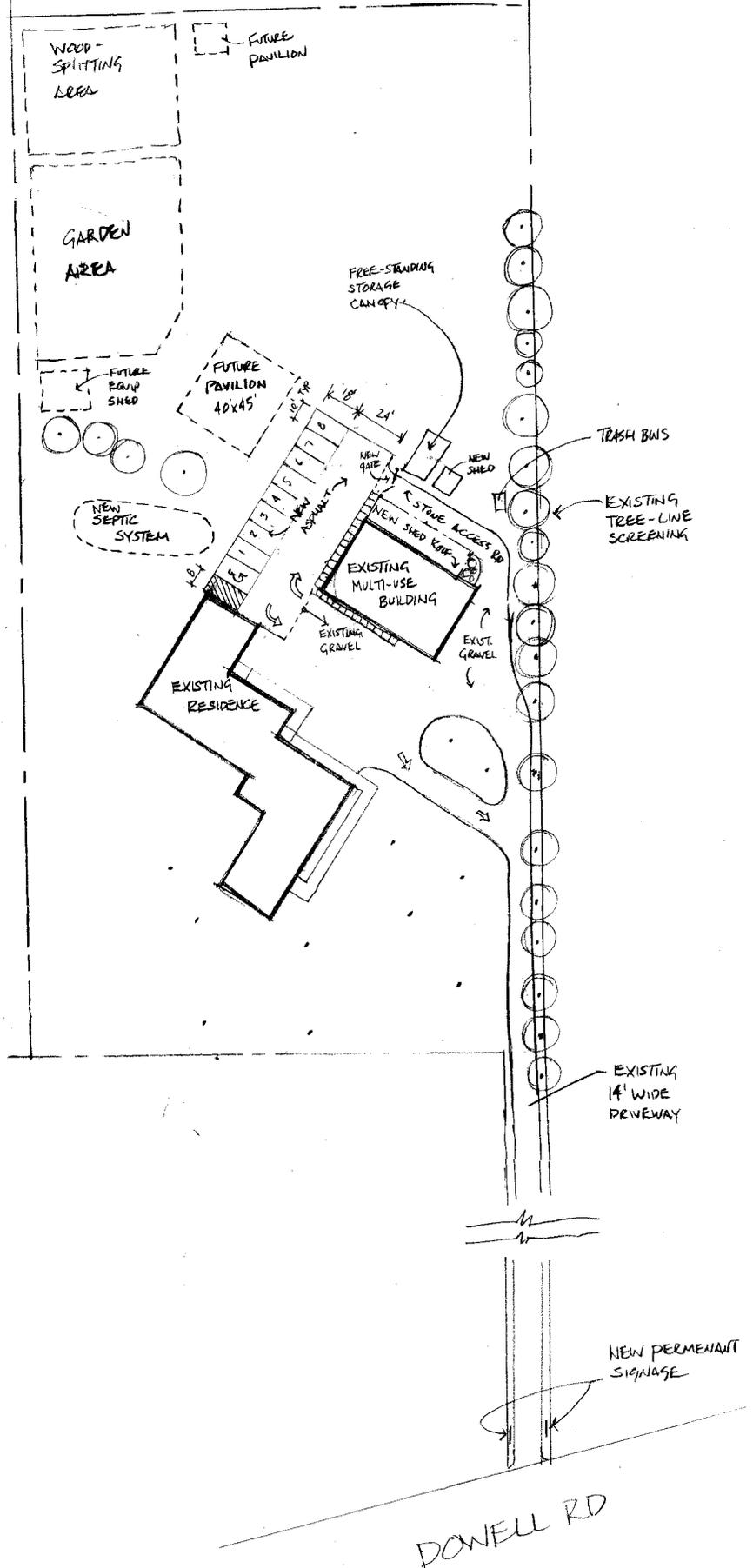
The proposed uses is a not a for-profit business and will not be generating any new taxes. However, it will be a benefit to the members of the community who may patron the food pantry.

Infrastructure

There are no statements in the 2030 Plan that applies to the proposed uses.

2030 Comprehensive Plan Analysis

The proposed conditional uses are located within a *Sensitive Aquifer Recharge Area* however should have minimal impact on the water resources due to the nominal amount of new impervious services. The PIQ is not being used for farm land. Therefore, the proposed use would not be removing productive farm land.



COUNTY CLERK'S OFFICE—AUGUST 2011

Requestor: KCSCHULT
Performance Accounting

Page 1 of 1
Date/Time of Report: 9/14/2011 10:46:34

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Monthly Activity

Style: Tabular
Dept: 14
Org:
Summarize by: OCA Secondary Summarize by: (None)
Primary Detail by: OCA Secondary Detail by: Object Lvl 3
Accrued Revenue: Included

FILED
MCHENRY COUNTY, IL
SEP 14 2011
Katharine C. Schult
COUNTY CLERK

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title	Appn/Dept Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
140001	County Clerk	8010	Misc. County Clerk Fees	\$0.00	\$15,690.25	\$0.00	(\$15,690.25)	0.00%
140001	County Clerk	8020	County Clk Tax Redemption Fe	\$0.00	\$13,400.35	\$0.00	(\$13,400.35)	0.00%
140001	County Clerk	9510	Interest Income	\$0.00	\$97.35	\$0.00	(\$97.35)	0.00%
140005	Automation Fun	8033	County Clerk Automation Fees	\$0.00	\$1,424.00	\$0.00	(\$1,424.00)	0.00%
140005	Automation Fun	9510	Interest Income	\$0.00	\$11.77	\$0.00	(\$11.77)	0.00%
140005	Automation Fun	9990	UTILIZATION OF FUND BALA	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
				\$0.00	\$30,623.72	\$0.00	(\$30,623.72)	0.00%

Requestor: KCSCHULT
Performance Accounting

COUNTY CLERK'S OFFICE—AUGUST 2011

Page 1 of 1
Date/Time of Report: 9/14/2011 10:46:24

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Year Activity

Style: Tabular
Dept: 14
Org:
Summarize by: OCA Secondary Summarize by: (None)
Primary Detail by: OCA Secondary Detail by: Object Lvl 3
Accrued Revenue: Included

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title	Appn/Dept Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
140001	County Clerk	8010	Misc. County Clerk Fees	\$190,000.00	\$136,443.97	\$0.00	\$53,556.03	71.81%
140001	County Clerk	8020	County Clk Tax Redemption Fees	\$180,000.00	\$132,864.05	\$0.00	\$47,135.95	73.81%
140001	County Clerk	9510	Interest Income	\$2,000.00	\$1,657.05	\$0.00	\$342.95	82.85%
140005	Automation Fund	8033	County Clerk Automation Fees	\$13,000.00	\$9,971.00	\$0.00	\$3,029.00	76.70%
140005	Automation Fund	9510	Interest Income	\$125.00	\$101.46	\$0.00	\$23.54	81.17%
140005	Automation Fund	9990	UTILIZATION OF FUND BALANCE	\$29,375.00	\$0.00	\$0.00	\$29,375.00	0.00%
				\$414,500.00	\$281,037.53	\$0.00	\$133,462.47	67.80%

Requestor: KCSCHULT
Performance Accounting

COUNTY CLERK'S OFFICE—AUGUST 2011

Page 1 of 1
Date/Time of Report: 9/14/2011 10:46:47

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Monthly Activity

Style: Tabular
Dept: 13
Org:
Summarize by: OCA Secondary Summarize by: (None)
Primary Detail by: OCA Secondary Detail by: Object Lvl 3
Accrued Revenue: Included

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title	Appn/Dept Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
130001	County Election	9443	State Reimb - Election Judges	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
130001	County Election	9444	State Reimb - Elections Early Vo	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
130001	County Election	9840	Miscellaneous	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
				\$0.00	\$0.00	\$0.00	\$0.00	0.00%

COUNTY CLERK'S OFFICE—AUGUST 2011

Requestor: KCSCHULT
Performance Accounting

Page 1 of 1
Date/Time of Report: 9/14/2011 10:46:56

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Year Activity

Style: Tabular
Dept: 13
Org:
Summarize by: OCA Secondary Summarize by: (None)
Primary Detail by: OCA Secondary Detail by: Object Lvl 3
Accrued Revenue: Included

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title	Appn/Dept Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
130001 County Election	9443	State Reimb - Election Judges		\$35,000.00	\$47,070.00	\$0.00	(\$12,070.00)	134.49%
130001 County Election	9444	State Reimb - Elections Early Vo		\$0.00	\$30,600.00	\$0.00	(\$30,600.00)	0.00%
130001 County Election	9840	Miscellaneous		\$0.00	\$0.00	\$0.00	\$0.00	0.00%
				\$35,000.00	\$77,670.00	\$0.00	(\$42,670.00)	221.91%



David A. Christensen
Director

McHenry County Emergency Management Agency

www.mchenrycountyil.gov

ema@co.mchenry.il.us

Robert E. Ellsworth, Jr., CEM
Assistant Director

McHenry County Emergency Management Agency Monthly Report for August, 2011 By David A. Christensen, Director

Response:

Weather events (including activation of the EOC radio room) occurred on 8/2, 8/4, 8/7, and 8/12. This was an extension of severe weather patterns that had reached a zenith in July. There was no significant damage reported.

Director Christensen and Deputy Director Ellsworth began the process of incorporating EMA volunteers into the fire response in a firefighter rehab capacity. This will free firefighters for the main role, while these volunteers administer fluids, provide cooling or warming environments, and other non-firefighting roles.

Preparedness:

Search and Rescue Training (SAR) was conducted at a local park. Topics included orienteering and search safety. This training was conducted by EMA Deputy Director Bill Early and other volunteers on 8/10.

The volunteers had prepared to support the "roller skiing" event in Fox River Grove. Training and equipment preparations had been made; however, the event was cancelled from McHenry EMA.

Deputy Director Ellsworth spent a significant amount of time evaluating a new employee / volunteer notification system. As the investigation continued, we found a tool existed within the ETSB system. Utilizing this existing technology, we are now able to contact our volunteers selectively, signally, or in groups. The tool also tracks responses with ETA's and other pertinent data. Being a web based tool, there were no additional hardware requirements.

Steve James (EMA Volunteer) completed all necessary requirements to receive his Illinois Professional Emergency Manager (IPEM) designation.

Director Christensen proctored (and hosted) a test for Certified Emergency Manager at the EOC.

Director Christensen participated in meetings of the WI IL Border County meetings (public health), International Association of Emergency Managers, Illinois Incident Management Team, Illinois Emergency Assistance Team, Mutual Aid Box Alarm System (Fire mutual aid), Metro-County Coordinators, Illinois Terrorism Task Force, and Prairie State CERT Challenge planning and exercise committee.

Mitigation:

Director Christensen assisted the Water Resources Steering Committee with drought planning. Subsequent actions will further involve EMA in the planning, mitigation, and preparedness efforts related to this vital resource.

Discussions ensued on generator usage, placement, and logistics. Mainly conducted with Facilities. Criteria for electrical needs, as well as vital missions were discussed.

Planning:

Extensive review of response and coordination was conducted by the EMA Staff. This included restructuring of some volunteer divisions. Static map displays were upgraded, with the able and willing help of the GIS (Bryan) department. Several status boards and multi-media boards were added to the EOC to enhance situational awareness and disaster planning.

EMA and Tom Annarello (Valley Hi) met with the Collaborative Healthcare Urgency Group to discuss patient evacuation / sheltering and mutual aid capabilities. Memorandums of Understanding have been sent to the States Attorney for review.

EMA continued its cooperative agreements with McHenry County College. This includes a new initiative to provide space in the transmitter room and on the tower to allow the IT networks to back up each other's servers.

Vehicle Status:

#52 had repairs to brakes (master cylinder), exhaust manifold leak, and transmission leak completed.

EMA #54 was in for service several days for mechanical problems and routine maintenance.

Continuing evolutions:

- RACES volunteers conducted weekly Monday night and Saturday radio nets.
- Emergency Services Volunteers met as a whole and in committee(s) to further preparedness efforts.

**MCHENRY COUNTY EMERGENCY MANAGEMENT AGENCY
SUMMARY OF MONTHLY HOURS FOR AUGUST**

<u>VOLUNTEER DIVISION</u>	<u>TOTAL HOURS WORKED</u>
Administration	135.25
Dive Support	13.50
Information Technology	Included
Public Information	Included
Radio Amateurs	171.75
Search and Rescue	20.50
Shelter Management	8.0
Special Needs	Included

Telecommunications	11.25
Weather	19.75
Monthly hours donated for the County by all EMA Volunteers	380.00
TOTAL HOURS DONATED FOR THE YEAR 2011	3388.75

The Administrative staff donated the following number of hours: Deputy Director Early, 34.50; Deputy Director Locke, 17.50; Deputy Director Rospopo, 10.50.

EMA facilities were used for 22 work days by ETSB, GIS, Sheriff's Office, and Records storage for meetings and training.

EMA ROOM UTILIZATION - AUGUST

<u>DATE</u>	<u>DEPT</u>	<u>OPERATIONS ROOM</u>
8/10 PM	EMA	EMERGENCY SERVICES VOLUNTEERS MEETING
8/18 PM	EMA	SAR (SEARCH & RESCUE) TRAINING
8/29	EMA	IL STATE REPRESENTATIVE KENT GAFFNEY TOUR
8/30	SHERIFF'S OFFICE	ADP (AUTOMATIC DATA PROCESSING) TRAINING
<u>DATE</u>	<u>DEPT</u>	<u>MEETING ROOM</u>
8/1 - 8/25	E911	FIELD BASE REPORTING & RECORDS MANAGEMENT TRAINING

To: The Honorable Michael J. Sullivan, Chief Judge
The Honorable Michael Caldwell
The Honorable Michael Chmiel
The Honorable Joseph Condon
The Honorable Maureen McIntyre
The Honorable Sharon Prather
The Honorable Charles Weech

PUBLIC DEFENDER REPORT

	<u>August, 2011</u>	<u>August, 2010</u>
Defendant's Assigned	453	362
Defendant's Disposed	373	390
Total Number of Charges Disposed	649	739
Felonies	111	139
Misdemeanors	506	589
Juveniles	32	11
Other	0	0

Respectfully Submitted,

Mark G. Cook
Public Defender

MC:do

cc: County Clerk
McHenry County Board
Kathy Keefe, Clerk of the Circuit Court
Dan Wallis, Trial Court Administrator

FILED
McHENRY COUNTY, IL

SEP 06 2011

Requestor: KABEACH
Performance Accounting

Page 1 of 1

Date/Time of Report: 9/2/2011 14:21:40

Katherine C. Schultz
COUNTY CLERK

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Monthly Activity

Style: Tabular

Dept: 15

Org:

Summarize by: OCA 150100 Recorders Automation Fund Recorders Automation Fund
(To be used for automation per Statute) Secondary Summarize by: (None)

Primary Detail by: OCA Secondary Detail by: Object Lvl 3

Accrued Revenue: Included

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title	Appn/Dept Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
150100	Recorders Automation Fu	8160	Recorder Automation Fees	\$0.00	\$57,020.00	\$0.00	(\$57,020.00)	0.00%
150100	Recorders Automation Fu	8165	Service Fees	\$0.00	\$5,084.00	\$0.00	(\$5,084.00)	0.00%
150100	Recorders Automation Fu	9510	Interest Income	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
150100	Recorders Automation Fu	9990	UTILIZATION OF FUND BALAN	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
				\$0.00	\$62,104.00	\$0.00	(\$62,104.00)	0.00%

Requestor: KABEACH
Performance Accounting

Page 1 of 1
Date/Time of Report: 9/2/2011 14:21:49

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Year Activity

Style: Tabular

Dept: 15

Org:

Summarize by: OCA 150100 Recorders Automation Fund
Secondary Detail by: Object Lvl 3

Primary Detail by: OCA Secondary Detail by: Object Lvl 3

Accrued Revenue: Included

Recorders Automation Fund
(To be used for automation per Statute)

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title Appn/Dept Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
150100	Recorders Automation Fu	8160	Recorder Automation Fees	\$780,000.00	\$513,827.00	\$0.00	\$266,173.00 65.88%
150100	Recorders Automation Fu	8165	Service Fees	\$70,000.00	\$49,919.00	\$0.00	\$20,081.00 71.31%
150100	Recorders Automation Fu	9510	Interest Income	\$2,500.00	\$1,583.61	\$0.00	\$916.39 63.34%
150100	Recorders Automation Fu	9990	UTILIZATION OF FUND BALAN	\$150,947.00	\$0.00	\$0.00	\$150,947.00 0.00%
				\$1,003,447.00	\$565,329.61	\$0.00	\$438,117.39 56.34%

FILED
McHENRY COUNTY, IL.

SEP 06 2011

Katherine C. Schultz
COUNTY CLERK

Requestor: KABEACH
Performance Accounting

Page 1 of 1
Date/Time of Report: 9/2/2011 14:21:05

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Monthly Activity

Style: Tabular
Dept: 15
Org:
Summarize by: OCA 150005 County Recorder Secondary Summarize by: (None)
Primary Detail by: OCA Secondary Detail by: Object Lvl 3
Accrued Revenue: Included

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title	Appn/Dept Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
150005 County Recordr	7105	Tax Transfer Stamps		\$0.00	\$132,024.00	\$0.00	(\$132,024.00)	0.00%
150005 County Recordr	8060	Recording Fees		\$0.00	\$84,259.00	\$0.00	(\$84,259.00)	0.00%
150005 County Recordr	8064	Housing Surcharge-County Port		\$0.00	\$1,890.00	\$0.00	(\$1,890.00)	0.00%
				\$0.00	\$218,173.00	\$0.00	(\$218,173.00)	0.00%

FILED
McHENRY COUNTY, IL

SEP 06 2011

Katharina C. Schultz
COUNTY CLERK

Requestor: KABEACH
Performance Accounting

Page 1 of 1
Date/Time of Report: 9/2/2011 14:22:06

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Year Activity

Style: Tabular
Dept: 15
Org:
Summarize by: OCA 150005 County Recorder Secondary Summarize by: (None)
Primary Detail by: OCA Secondary Detail by: Object Lvl 3
Accrued Revenue: Included

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title Appn/Dept	Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
150005 County Recorder		7105	Tax Transfer Stamps	\$1,200,000.00	\$863,216.25	\$0.00	\$336,783.75	71.93%
150005 County Recorder		8060	Recording Fees	\$1,150,000.00	\$777,612.69	\$0.00	\$372,387.31	67.62%
150005 County Recorder		8064	Housing Surcharge-County Port	\$25,000.00	\$17,595.50	\$0.00	\$7,404.50	70.38%
				\$2,375,000.00	\$1,658,424.44	\$0.00	\$716,575.56	69.83%

FILED
McHENRY COUNTY, IL

SEP 06 2011

Katherine C. Schultz
COUNTY CLERK

Requestor: KABEACH
Performance Accounting

Page 1 of 1
Date/Time of Report: 9/2/2011 14:21:29

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Monthly Activity

Style: Tabular
Dept: 15
Org:
Summarize by: OCA 150010 Housing Surcharge - Recorder Portion Secondary Summarize by: (None)
Primary Detail by: OCA Secondary Detail by: Object Lvl 3
Accrued Revenue: Included

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title	Appn/Dept	Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
150010	Housing Surcharge - Recorder Por	8064	Housing Surcharge-County Portio		\$0.00	\$0.00	\$0.00	\$0.00	0.00%
150010	Housing Surcharge - Recorder Por	8065	Housing Surcharge-Recorder Por		\$0.00	\$1,890.00	\$0.00	(\$1,890.00)	0.00%
150010	Housing Surcharge - Recorder Por	9510	Interest Income		\$0.00	\$2.65	\$0.00	(\$2.65)	0.00%
150010	Housing Surcharge - Recorder Por	9990	UTILIZATION OF FUND BALANC		\$0.00	\$0.00	\$0.00	\$0.00	0.00%
					\$0.00	\$1,892.65	\$0.00	(\$1,692.65)	0.00%

FILED
McHENRY COUNTY, IL

SEP 06 2011

Madeline C. Schultz
COUNTY CLERK

Requestor: KABEACH
Performance Accounting

Page 1 of 1

Date/Time of Report: 9/2/2011 14:21:57

County of McHenry
Revenue Financial Analysis Inquiry
Fiscal Period: Month 09 2011 Appn Yr: 2011
Act/Bal: Year Activity

Style: Tabular

Dept: 15

Org:

Summarize by: OCA 150010 Housing Surcharge - Recorder Portion Secondary Summarize by: (None)

Primary Detail by: OCA Secondary Detail by: Object Lvl 3

Accrued Revenue: Included

OCA	OCA Title	Object Lvl 3	Object Lvl 3 Title	Appn/Dept Budget	Cash Revenue	Accrued Rev	Under/(Over)	% of Budget
150010	Housing Surcharge - Recorder Por	8064	Housing Surcharge-County Portio	\$0.00	\$0.00	\$0.00	\$0.00	0.00%
150010	Housing Surcharge - Recorder Por	8065	Housing Surcharge-Recorder Por	\$25,000.00	\$17,595.50	\$0.00	\$7,404.50	70.38%
150010	Housing Surcharge - Recorder Por	9510	Interest Income	\$100.00	\$32.94	\$0.00	\$67.06	32.94%
150010	Housing Surcharge - Recorder Por	9990	UTILIZATION OF FUND BALANC	\$37,341.00	\$0.00	\$0.00	\$37,341.00	0.00%
				\$62,441.00	\$17,628.44	\$0.00	\$44,812.56	28.23%

FILED
McHENRY COUNTY, IL

SEP 06 2011

Katherine C. Schultz
COUNTY CLERK

Requestor: KABEACH
 Performance Accounting

Page 1 of 1
 Date/Time of Report: 9/2/2011 14:20:26

County of McHenry
 General Ledger Inquiry
 Month 09 2011
 Account / Balance: Monthly Activity

Inquired Key:
 Dept: Appn Yr: 2011
 Fund: 474 Illinois Housing Surcharge Fund Subfund:
 Grant / Detail: Project / Detail:
 Org:

Gl Acct / Sub	Titles	Beginning Bal	Debit	Credit	Ending Bal
1101	Equity in Pooled Cash	29,727.00	34,020.00	29,727.00	34,020.00
	Total for 1101	29,727.00	34,020.00	29,727.00	34,020.00
1105	1015 Recorders Office Receivable	0.00	0.00	0.00	0.00
	Total for 1105	0.00	0.00	0.00	0.00
2222	320000 Due to State of Illinois	-29,727.00	29,727.00	34,020.00	-34,020.00
	Total for 2222	-29,727.00	29,727.00	34,020.00	-34,020.00
3353	Fund Balance - Undesignated	0.00	0.00	0.00	0.00
	Total for 3353	0.00	0.00	0.00	0.00
	Totals	-0.00	63,747.00	63,747.00	-0.00

FILED
 McHENRY COUNTY II

SEP 06 2011

Estherie C. Schultz
 COUNTY CLERK

Requestor: KABEACH
 Performance Accounting

Page 1 of 1
 Date/Time of Report: 9/2/2011 14:20:39

County of McHenry
 General Ledger Inquiry
 Month 09 2011
 Account / Balance: Year Activity

Inquired Key:
 Dept: Appn Yr: 2011
 Fund: 474 Illinois Housing Surcharge Fund Subfund:
 Grant / Detail: Project / Detail:
 Org:

Gl Acct / Sub	Titles	Beginning Bal	Debit	Credit	Ending Bal
1101	Equity in Pooled Cash	47,565.00	316,719.00	330,264.00	34,020.00
	Total for 1101	47,565.00	316,719.00	330,264.00	34,020.00
1105	1015 Recorders Office Receivable	0.00	0.00	0.00	0.00
	Total for 1105	0.00	0.00	0.00	0.00
2222	320000 Due to State of Illinois	-47,565.00	330,264.00	316,719.00	-34,020.00
	Total for 2222	-47,565.00	330,264.00	316,719.00	-34,020.00
3353	Fund Balance - Undesignated	0.00	0.00	0.00	0.00
	Total for 3353	0.00	0.00	0.00	0.00
	Totals	-0.00	646,983.00	646,983.00	-0.00

F I L E D
 McHENRY COUNTY IL

SEP 06 2011

Handwritten Signature
 COUNTY CLERK

STATE OF ILLINOIS
 McHenry County Sheriff's Office
 Correctional Bureau
 2200 N. Seminary Ave
 Woodstock, IL 60098

County Jail Population Report

MCHENRY

May, 2011

(County)

(Month and Year)

	Non-Sentenced		Regular Sentenced		Sentenced Weekend	
	Number of New Bookings	Total Number of Days of Non Sentenced	Number of New Sentenced	Total Number of Days Regular Sentenced	Number of New Sentenced	Total Number of Days W/E Sentenced
Male	544	3,940	39	355	12	185
Female	97	367	6	66	0	0
Juvenile Male	6	6	0	0	0	0
Juvenile Female	2	4	0	0	0	0
Totals	649	4,317	45	421	12	185

Please mail reports by the 10th day of each month. All figures for current month only.

**COUNTY BOARD REPORT
AUGUST 2011**

PRISONER COUNT FOR THE MONTH

TOTAL MALES RECEIVED	618
TOTAL FEMALES RECEIVED	123
TOTAL PRISONERS RECEIVED	741
TOTAL PRISONERS DISCHARGED	758
AVERAGE PRISONER COUNT PER DAY	496
PRISONER RECORDS PREPARED	741
COURT PROCESSES RECEIVED	1,952
COURT PROCESSES SERVED	1,345
PRISONERS TRANSPORTED FOR ICE and US MARSHALS	851
PRISONERS TRANSPORTED FOR WARRANT PICK-UPS	53
PRISONERS TAKEN TO LOCAL COURT	883
MILEAGE CONVEYING PERSONS	20,272
MILEAGE SERVING COURT PROCESSES	13,851
MILEAGE PATROLLING AND INVESTIGATING	162,455
GASOLINE USED FOR SHERIFF'S POLICE	15,999.60 gallons

ACCIDENT INVESTIGATIONS HANDLED

TOTAL NUMBER OF ACCIDENTS	97
PEDESTRIAN	0
FATALITIES	1
INJURY	26
NO INJURY	47
PROPERTY DAMAGE	10
CITY VEHICLE	1
	<u>AUGUST 2010</u>
DEER	11
	7
	<u>AUGUST 2010</u>
BY AVOIDING DEER	1
	0
HIT & RUN	5
WARNING TICKETS ISSUED	332
TICKETS ISSUED	662

**SHERIFF
McHENRY COUNTY**

R E S O L U T I O N
TO APPROVE APPOINTMENT OF MEMBERS
TO AN EXPANDED BOARD OF REVIEW FOR ASSESSMENT YEAR 2011

WHEREAS, the 35 ILCS 200/6-25 provides that the County Board may declare by Resolution that the number of complaints filed with the Board of Review relating to the assessment of property has created an emergency situation and has caused a need for an expanded Board of Review; and

WHEREAS, the Clerk of the Board of Review has suggested that the number of anticipated complaints filed with the McHenry County Board of Review will create an emergency situation; and

WHEREAS, the County Board must declare that said number of complaints constitutes an emergency situation causing the need for an expanded Board of Review; and

WHEREAS, under such an emergency situation, the Chairman of the Board may appoint additional qualified members to the Board of Review.

NOW, THEREFORE BE IT RESOLVED, by this County Board of McHenry County, Illinois that the number of complaints filed with the Board of Review creates an emergency situation and causes a need for an expanded Board of Review; and

BE IT FURTHER RESOLVED, that said additional members for an expanded Board of Review shall be persons qualified by virtue of their having passed the State Board of Review examination and as recommended from time-to-time by the Clerk of the Board of Review; and

BE IT FURTHER RESOLVED, that the following persons, having been so qualified and recommended by the Clerk of the Board of Review, are hereby appointed by the Chairman of the Board as additional members of the McHenry County Board of Review:

Sharon L. Bagby, Crystal Lake, Algonquin Twp.
Paul M. Bauer, Geneva, Blackberry Twp. (Kane)
Noel W. Hansmann, Cary, Algonquin Twp.
Wilma J. Heisler, Crystal Lake, Nunda Twp.
Michael Lescher, Fox Lake, Grant Twp. (Lake)
Sherry Melze, Gilberts, Rutland Twp. (Kane)
John R. Meredith, Algonquin, Algonquin Twp.
Jerrilynne G. Partlo, Marengo, Seneca Twp.
Virginia Peschke, Woodstock, Dorr Twp.

John Reckamp, Crystal Lake, Grafton Twp.
Robert J. Schaid, McHenry, McHenry Twp.
Stephanie Seiwert, Wauconda, Wauconda Twp. (Lake)
Wayne J. Skonieczny, Richmond, Richmond Twp.
Susan Standish, Union, Seneca Twp.
Theresa Tasch-Sensing, Crystal Lake, Grafton Twp.
John T. Whitney, Spring Grove, Richmond Twp.
Cornelia Wismer, Island Lake, Wauconda Twp. (Lake)

BE IT FURTHER RESOLVED, that payment to said additional members shall be made from the Assessment's budget 050001-3030; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby authorized to distribute a certified copy of this Resolution to the Clerk of the McHenry County Board of Review; the State's Attorney; the Auditor; the Associate County Administrator-Finance; and the County Administrator.

DATED at Woodstock, Illinois, this 20th day of September, A.D. 2011.

Kenneth Koehler, Chairman
McHenry County Board

ATTEST:

Katherine C. Schultz, County Clerk

R E S O L U T I O N

AUTHORIZING MONTHLY TRANSACTIONS FOR THE DELINQUENT TAX PROGRAM

WHEREAS, the County of McHenry had undertaken a program to collect delinquent taxes and to perfect titles to real property in cases where the taxes on same have not been paid pursuant to 35 ILCS 205/216d and 205/235a; and

WHEREAS, pursuant to said program, the County of McHenry has acquired an interest in the real estate described in the attached information; and

WHEREAS, it appears to your Finance Committee that it would be in the best interest of the County to dispose of its interest in said property; and

WHEREAS, the parties in the attached information, have offered the amounts shown and the distribution of these amounts have been determined as stated; and

WHEREAS, your Finance and Audit Committee recommends the adoption of this Resolution.

NOW, THEREFORE BE IT RESOLVED, by the County Board of McHenry County, Illinois, that the Chairman is hereby authorized to either execute a deed of conveyance of the County's interest or authorize a cancellation of the appropriate certificates of purchase, whatever the case may be, relative to the real estate described in the attached information for the amounts shown, to be disbursed according to law (said information sheets attached hereto and made part hereof); and

BE IT FURTHER RESOLVED, that the County Clerk is hereby requested to distribute a certified copy of this Resolution to the County Administrator; Treasurer; and the State's Attorney; and the McHenry County Delinquent Tax Agent.

DATED at Woodstock, Illinois, this 20th day of September, A.D., 2011.

KENNETH D. KOEHLER, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk

RES#	Account	Type	Account Name	Total Collected	County Clerk	Auctioneer	Recorder/ Sec of State	Agent	Treasurer
09-11-001	2007-02308	REC	VILLAGE OF HUNTLEY	714.07	136.76	0.00	50.00	356.86	170.45
09-11-002	2007-02309	REC	VILLAGE OF HUNTLEY	714.28	136.76	0.00	50.00	356.94	170.58
Totals				\$1,428.35	\$273.52	\$0.00	\$100.00	\$713.80	\$341.03

_____	_____	Clerk Fees	\$273.52
_____	_____	Recorder/Sec of State Fees	\$100.00
_____	_____	Total to County	\$714.55
_____	_____		

Committee Members

RESOLUTION

APPROVAL TO ENTER INTO CONTRACT WITH MULLINS & LONERGAN ASSOCIATES FOR THE PREPARATION OF AN ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE

WHEREAS, McHenry County, with a threshold population in excess of 200,000, is an "Urban Entitlement County" and therefore receives direct annual funding from the U.S. Department of Housing and Urban Development (HUD) under the Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) Programs and other special grants from time to time; because the County receives said federal entitlement funds, HUD requires each entitlement jurisdiction (County of McHenry, Illinois) to be fully aware of the existence, nature, extent and causes of all fair housing matters and to conduct and administer in conformity with the Federal Fair Housing Act in order to affirmatively further fair housing choices; and

WHEREAS, there is a requirement by HUD that documented identification of these issues along with a plan to eradicate negative barriers, called an *Analysis of Impediments to Fair Housing Choice (AI)*, be executed in order to assess the status of fair housing in the entitlement jurisdiction specifically examining how state and local laws, private, public and non-profit sector regulations, administrative policies, procedures and practices impact the location, availability and accessibility of housing for a local jurisdiction and the protected classes including race, color, national origin, religion, sex, familial status or disability; and

WHEREAS, to maintain compliance with said HUD requirements, McHenry County is required to have a current (five years young) executed *Analysis of Impediments to Fair Housing Choice* that guides the entitlement jurisdiction through measurable goals and objectives; and

WHEREAS, the Housing Commission procured proposals and after review and discussion voted to recommend to the County Board the firm of Mullins and Lonergan Associates of Pittsburg, PA to prepare the AI for a fixed price of thirty-nine thousand nine hundred forty nine and 00/100 (\$39,949.00) to be expended from HOME administration grant funds.

NOW, THEREFORE BE IT RESOLVED, by this County Board of McHenry County, Illinois that the Community Development Division is hereby directed to prepare and have the County Board Chairman execute a contract between the County of McHenry, Illinois and Mullins and Lonergan Associates of Pittsburg, PA to prepare an Analysis of Impediments to Fair Housing Choice for the fixed price of thirty-nine thousand nine hundred forty nine and 00/100 (\$39,949.00) to be expended from HOME administration grant funds; and

BE IT FURTHER RESOLVED, that this County Board of McHenry County, Illinois hereby approves and authorizes the Community Development Division staff to submit amended Action Plans as determined applicable to the U.S. Department of Housing and Urban Development; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby authorized to distribute a certified copy of this Resolution to the County Administrator, the County Treasurer, the County Auditor, the Associate County Administrator-Finance and the Planning and Development Director.

DATED at Woodstock, Illinois, this 20th day of September, A.D., 2011.

KENNETH D. KOEHLER, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ
McHenry County Clerk

2011-2012 Analysis of Impediments

PRELIMINARY REVIEW CHECKLIST

Date Received: August 17, 2011

Time Received: 11:26AM

Applicant Entity: Mullin & Lonergan Associates, Pittsburgh, PA

Case Number: AI-06

Proposal Minimum Qualifications:

Minimum 5 years consulting in Fair Housing

Evidence: est. 1965, FH-over 40AI's, completion of 52 ConPlans since 2005, housing plans and studies

Completion of 2 AI's within last 5 years

Evidence: 2 samples from 2011

County government work (priority, not required)

Evidence: Will County, IL, Atlantic County, NJ, several PA counties

Post-Westchester experience (priority, not required)

Evidence: AI's completed, provided outline of direct effects of case/considerations on AI and Consolidated planning in relation to case, references subsequent relevant State of Texas case using West. ruling as premise and other FH cases

Required Documentation:

Cover Letter

Certifications

Background Information

Three references

Resumes

Proposal Fee:

Base Prices-all travel, production, purchase of data, research and analysis	\$39,949.00
Extra #1	\$
Extra #2	\$
Extra #3	\$
Other	
OTHer	
Other	
Total	\$39,949.00

Timeline and hours:

October 1 through March 31, 2012

300 total hours

Required Services: Evidence summarized below

AI according to required planning sources:

-Indicates understanding of compliance with required HUD AI planning guidelines, also includes Federal Fair Housing Act

AI-Assessment of demographic patterns:

- population , households, income, emphasis on protected classes-patterns and trends-data at municipal and census tract level
- map demographic and housing trends-area of concentration of minorities/low income persons/areas of opportunity
- analysis of employment data/employment centers relative to concentrations of protected classes and assisted housing

Assessment of Regulations:

- will review FH complaints as per HUD and IHRC
- evaluate MCHA voucher program (Section 8)
- evaluation of Home Mortgage Disclosure Act data
- evaluation of local County policies including application processes, FH efforts, procedures with sub-recipients
- evaluation of local County zoning, County zoning and regulation, building codes (state and local)
- evaluation of representative sampling of municipal zoning/regulatory requirements, building codes
- evaluation of HUD documents-ConPlan, CAPER, Action Plans
- evaluation of subrecipient tenant selection plans and policies
- evaluation of FH complaint procedures

Assessment of affordable and accessible housing-purchase/rental:

- evaluate local stock for condition, accessibility, vacancy, prices and rents
- evaluate/compare affordability in respect to major minority groups-geographic distribution
- evaluate patterns of housing segregation using dissimilarity index

Assessment of population for growth and forecast:

- will purchase Nielsen data for 2011-2016 forecast and evaluate as per AI requirements with data acquired

Institutional practices:

- consultations of related stakeholders
- review of real estate practices, training, recognition of FH regs and violations
- evaluate sales prices, participation of groups in MLS system
- review of local advertising

Action Plan for Identified Impediments:

- complete analysis, provide recommendations in FHAP document-goals and strategic actions within County capacity, will note impediments beyond County capacity separate, provide recommendations for including AFFH policies into HOME, CDBG programming

Additional Comments:

- Completed AI's in IL-Will County, Oak Park, Joliet-(Joliet in court with HUD, assisting to bring into compliance)
- Conducts FH compliance trainings
- Experience with HUD Consolidated Planning Process
- 7 member team
- Clear outline of consultant versus County responsibilities-County duties administrative in nature (coordination)
- Interim reports presented-draft version, final version
- Identified master list of stakeholders including local elected and appointed officials/committees, funding recipients, FH-related entities, advocacy, low-mod service groups, tenant groups planners, realtors, appraisers, landlords, property management entities, transit agencies, immigrant entities-interviews, questionnaires, focus group meetings
- Evaluate composition of appointed boards and commissions
- Evaluation of previous AI and measures taken-CAPER data included

**Department of Planning and Development
McHenry County Government Center - Administration Building**

2200 North Seminary Avenue
Woodstock, Illinois 60098



815 334-4560 Fax 815 337-3720
www.co.mchenry.il.us

To: Tina Hill, Chairman, and members of the Planning and Development Committee
Scott Breeden, Chairman, and members of the Finance and Audit Committee

From: Maryanne Wanaski
Community Development Division

Date: September 8, 2011

Re: Resolution Entering into a Contract Agreement with Mullins & Longeran to
Prepare an *Analysis of Impediments to Fair Housing Choice*

Action Required:

Recommendation to the McHenry County Board approving the attached Resolution entering into a contractual agreement with Mullins & Longeran for the preparation of an Analysis of Impediments to Fair Housing Choice for McHenry County, Illinois.

Background:

The County last conducted an Analysis of Impediment study in 1997 based on 1990 data. At the present time and with such antiquated information, the County is at risk of being subjected to legal ramifications from the federal government as many of our neighboring entitlement counties and jurisdictions have been. The current 1997 Analysis is not in compliance with federal mandates under the *Federal Fair Housing Act*.

Discussion:

The Housing Commission posted a RFP to which six firms responded. Of the six, the Housing Commission voted to recommend to the County a Pittsburg, PA firm, Mullins & Lonergan Associates (MLA) to prepare the *Analysis of Impediments to Fair Housing Choice* because of their previous work with municipal and county governments across the country including three local entities with approved AI from Region V. Most importantly, the Commission felt that MLA has a clear understanding of compliance issues with required HUD AI planning guidelines including the *Federal Fair Housing Act*.

The MLA proposal includes the following:

- Assessment of demographic patterns,
- Assessment of regulations countywide,
- Assessment of affordable and accessible housing purchases and rentals,

- Assessment of population for growth and forecast,
- Institutional practices, and
- Action plan for identified impediments.

In addition to the evaluations noted above Mullins & Lonergan also conduct Fair Housing trainings and have a vast and diverse background with HUD's consolidated planning process. Their proposal clearly outlined the County's and the consultant's responsibilities as well as a timeline wherein interim reports will be produced.

A staff report submitted to the Housing Commission is attached.

R E S O L U T I O N
AUTHORIZING A CONTRACT FOR BROWNFIELDS ASSESSMENT SERVICES
WITH URS CORPORATION

WHEREAS, the United State Environmental Protection Agency (USEPA) conducts a Brownfield Program to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields; and

WHEREAS, the USEPA's Brownfield Program includes the Brownfield Assessment Grants, which awards funding for brownfields inventories, planning, environmental assessments, and community outreach; and

WHEREAS, the County has received initial input from municipalities located in the County expressing an interest in Brownfield Assessments in their communities; and

WHEREAS, the County is an entity eligible to apply for a Brownfield Assessment Grant; and

WHEREAS, Brownfield Assessment Grant applications may be prepared with the assistance of a consultant and, if awarded, the assessment may be performed by a consultant using 100% grant funds; and

WHEREAS, the Purchasing Director sent out requests for proposal for said services and received six proposals back; and

WHEREAS, Staff reviewed the submissions, selected three of the six candidates to interview, and have recommended that URS Corporation be the selected vendor; and

WHEREAS, the Planning and Development Committee has reviewed, and concurs with, said recommendation.

NOW, THEREFORE, BE IT RESOLVED, by this County Board of McHenry County, Illinois that the Chairman of the Board is hereby authorized to enter into a contract with URS Corporation for consulting services relating to the preparation of a USEPA Brownfields Assessment Grant application to be followed by the performance of Assessment Grant services at a cost not to exceed the amount awarded under the USEPA Brownfields Assessment Grant (typically \$200,000 or \$400,000), and to be paid entirely from funds awarded by said grant over the three-year performance period designated by the USEPA; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby requested to distribute a certified copy of this Resolution to the Director of the Department of Planning & Development, the Director of Purchasing, the County Auditor, the Associate County Administrator – Finance, and the County Administrator.

DATED at Woodstock, Illinois this 20th day of September, A.D., 2011.

KENNETH D. KOEHLER, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk

**Department of Planning and Development
McHenry County Government Center - Administration Building**

2200 North Seminary Avenue
Woodstock, Illinois 60098



815 334-4560 Fax 815 337-3720
www.co.mchenry.il.us

MEMORANDUM

To: Tina Hill, Chairman, and Members of the Planning and Development Committee

From: Darrell Moore, Acting Principal Planner

Date: September 12, 2011

Re: EPA Brownfield Assessment Grants

Board/Committee Action Requested

Staff is requesting that the Committee recommend authorization for entering into a contractual agreement with URS Corporation to prepare a USEPA Brownfields Assessment Grants application and, if the grant is awarded, to conduct the assessment.

Background

On July 21, 2011, the Committee gave Staff permission to apply for a USEPA Brownfields Assessment Grant with the understanding that the endeavor would involve having a consultant prepare the grant and perform the assessment. The consultant would be paid only if the grant is awarded and only for their assessment services. All funding would be from the USEPA grant.

On August 8th, the county posted RFP #11-39 for the purpose of contracting with a qualified firm to provide assessment services. Six proposals were received by the August 24th submittal deadline. Staff reviewed the six proposal based upon a set of criteria and selected three vendors for interviews. The candidates were interviewed on September 8th and 9th and URS Corporation was selected as the most qualified vendor.

EPA Brownfields Assessment Grants provide funding for a grant recipient to inventory, characterize, assess, and conduct planning and community involvement related to brownfields sites. An eligible entity may apply for up to \$200,000 to assess a site contaminated by hazardous substances, pollutants, or contaminants (including hazardous substances co-mingled with petroleum) and up to \$200,000 to address a site contaminated by petroleum.

No matching funds are required and the performance period for an assessment grant is three years.

Discussion

As was stated in the RFP, the consultant will be paid (out of the grant) only for assessment services and only if they first prepare a successful grant application. During the interview, URS representatives said they “preferred” this arrangement.

If awarded, an Assessment Grant will require staff time and resources for monitoring and management of the project, including preparation of quarterly reports. In the interview, URS representatives stated they could assist with preparation of reports in addition to their other responsibilities of writing the grant, identifying and prioritizing sites, and conducting phase I and phase II environmental assessments.

Impact on Human Resources

The request will not have an impact on human resources.

Impact on Budget (Revenue, Expenses, Fringe Benefits)

This is a 100% grant requiring no matching funds. The request will not have an impact on the budget.

Impact on Capital Expenditures

The request will not require any capital expenditures.

Impact on Physical Space

The request will not have an impact on physical space requirements.

Impact on Other County Departments or Outside Agencies

The request will not have an impact on other county departments outside of some information gathering from their records. Input will be solicited from municipalities and townships regarding brownfield sites to inventory.

Conformity to Board Ordinances and Policies

The request conforms with all county policies and ordinances.

Attachments

None

**RESOLUTION
APPROPRIATING SUPPLEMENTAL FUNDS FOR
ANNUAL STRIPING PAINT MATERIALS**

WHEREAS, McHenry County has determined that there is a need to replace pavement striping along the County Highways as part of the approved 2011 to 2015 Highway Improvement Program; and

WHEREAS, the County Board approved the acceptance of the State bid for traffic marking paint material from Ennis Paint on May 3, 2011; and

WHEREAS, additional white paint is required to complete the 2011 pavement marking program as additional paint material is needed due to changing field conditions from the previous winter causing more paint to deteriorate than what was estimated.

NOW THEREFORE BE IT RESOLVED, by the McHenry County Board that the State of Illinois bid be accepted for said traffic marking paint and that ten thousand dollars (\$10,000.00) be appropriated from the Motor Fuel Tax Fund, OCA code 820110-5190 for said purchase; and

BE IT FURTHER RESOLVED, that this project is hereby designated as Section 11-00000-04-GM; and

BE IT FURTHER RESOLVED, that the Chairman is hereby authorized to execute the necessary contract documents; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby directed to distribute three certified copies of this resolution to the Director of Transportation/County Engineer, two of which will be forwarded to the Illinois Department of Transportation through its regional engineer's office at Schaumburg, Illinois.

DATED at Woodstock, Illinois, this 20th day of September, A.D., 2011.

KENNETH D. KOEHLER, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk



Ennis Traffic Safety Solutions
1509 S Kaufman
Ennis, TX 75119

2011 QUOTATION

Salesperson: Kathy Jaramillo
Phone: 800-331-8118 x7220
Direct Line: 214-874-7220
Fax: 800-555-0217
Email: kathy@ennistraffic.com

Date: 08/25/11
Prices are firm thru: 2/26/2012

TO: McHenry County
Andy
Phone: 815-334-4980
Fax: 9

Ship To: Woodstock, IL
County:

PART NO	COLOR	DESCRIPTION	QUANTITY	CONTAINER	PRICE PER	
					Gallon	Extended
981301	White	IL DOT Traffic Paint	1250	250 gallon Toke	\$7.643	\$ 9,553.75
		Contract# PSD4016907				
		Expiration: 2-28-2012			Freight	\$ -
					TOTAL	\$ 9,553.75

TERMS & CONDITIONS OF SALE

FOB: _____

Delivery: 15 calendar Days

FINANCIAL TERMS: NET 30 DAYS

NOTE: If paying with a credit card for any of the items quoted above a 3% credit card fee will be added to each order.

We at Ennis Traffic Safety Solutions would like to thank you for this opportunity and look forward to working with you. If I can be of service in any way please do not hesitate to call, 800-331-8118 x7220

Submitted By:

Kathy Jaramillo

Contract Administration - DOT

Ennis Traffic Safety Solutions
Ennis, Texas

RESOLUTION
APPROVING AN ENGINEERING SERVICES AGREEMENT FOR
PAVEMENT CONDITION SURVEY SERVICES
AND APPROPRIATING FUNDS

WHEREAS, McHenry County is implementing a pavement preservation and maintenance program on the County Highway System to protect the pavement structure as well as to maintain a safe and quality riding surface for the motoring public; and

WHEREAS, in order to properly implement and maintain a pavement preservation program, data regarding certain roadway characteristics need to be collected and integrated with the Pavement Management and Geographical Information Systems; and

WHEREAS, said pavement condition survey services is part of the approved FY 2011 to 2015 Highway Improvement Program; and

WHEREAS, the Transportation Committee has reviewed and recommends approval of the attached Engineering Services Agreement with Applied Research Associates of Champaign, Illinois for a not to exceed amount of \$118,670.77 to provide said engineering services, said agreement attached hereto and hereby made a part hereof.

NOW THEREFORE BE IT RESOLVED, by this County Board of McHenry County that the Engineering Services Agreement between McHenry County and Applied Research Associates is hereby approved in the not to exceed amount of \$118,670.77; and

BE IT FURTHER RESOLVED, by this County Board of McHenry County, Illinois that there is hereby appropriated the sum of one hundred twenty thousand dollars (\$120,000.00) from the County Option Motor Fuel Tax Fund, OCA code 820125-4455 for said pavement condition survey services; and

BE IT FURTHER RESOLVED, that this project is hereby designated as Section 11-00399-00-MS; and

BE IT FURTHER RESOLVED, that the Chairman is hereby authorized to execute said agreement; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby directed to transmit a certified copy of this resolution to the Director of Transportation/County Engineer.

DATED at Woodstock, Illinois, this 20th day of September, A.D., 2011.

KENNETH D. KOEHLER, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk

Municipality McHenry County Division of Transportation	L O C A L A G E N C Y	 Illinois Department of Transportation Preliminary Engineering Services Agreement For Motor Fuel Tax Funds	C O N S U L T A N T	Name Applied Research Associates, Inc
Township				Address 100 Trade Centre Dr. Suite 200
County McHenry				City Champaign
Section				State IL

THIS AGREEMENT is made and entered into this _____ day of _____, _____ between the above Local Agency (LA) and Consultant (ENGINEER) and covers certain professional engineering services in connection with the improvement of the above SECTION. Motor Fuel Tax Funds, allotted to the LA by the State of Illinois under the general supervision of the State Department of Transportation, hereinafter called the "DEPARTMENT", will be used entirely or in part to finance ENGINEERING services as described under AGREEMENT PROVISIONS.

Section Description

Name 2011 Pavement Management Update

Route Various Length _____ Mi. _____ FT (Structure No. _____)

Termini _____

Description:

Agreement Provisions

The Engineer Agrees,

1. To perform or be responsible for the performance of the following engineering services for the LA, in connection with the proposed improvements herein before described, and checked below:
 - a. Make such detailed surveys as are necessary for the preparation of detailed roadway plans
 - b. Make stream and flood plain hydraulic surveys and gather high water data, and flood histories for the preparation of detailed bridge plans.
 - c. Make or cause to be made such soil surveys or subsurface investigations including borings and soil profiles and analyses thereof as may be required to furnish sufficient data for the design of the proposed improvement. Such investigations are to be made in accordance with the current requirements of the DEPARTMENT.
 - d. Make or cause to be made such traffic studies and counts and special intersection studies as may be required to furnish sufficient data for the design of the proposed improvement.
 - e. Prepare Army Corps of Engineers Permit, Department of Natural Resources-Office of Water Resources Permit, Bridge waterway sketch, and/or Channel Change sketch, Utility plan and locations, and Railroad Crossing work agreements.
 - f. Prepare Preliminary Bridge design and Hydraulic Report, (including economic analysis of bridge or culvert types) and high water effects on roadway overflows and bridge approaches.
 - g. Make complete general and detailed plans, special provisions, proposals and estimates of cost and furnish the LA with five (5) copies of the plans, special provisions, proposals and estimates. Additional copies of any or all documents, if required, shall be furnished to the LA by the ENGINEER at his actual cost for reproduction.
 - h. Furnish the LA with survey and drafts in quadruplicate of all necessary right-of-way dedications, construction easement and borrow pit and channel change agreements including prints of the corresponding plats and staking as required.

Note: Four copies to be submitted to the Regional Engineer

- i. Assist the LA in the tabulation and interpretation of the contractors' proposals
 - j. Prepare the necessary environmental documents in accordance with the procedures adopted by the DEPARTMENT's Bureau of Local Roads & Streets.
 - k. Prepare the Project Development Report when required by the DEPARTMENT.
 - Update Pavement Management System**
- (2) That all reports, plans, plats and special provisions to be furnished by the ENGINEER pursuant to the AGREEMENT, will be in accordance with current standard specifications and policies of the DEPARTMENT. It is being understood that all such reports, plats, plans and drafts shall, before being finally accepted, be subject to approval by the LA and the DEPARTMENT.
- (3) To attend conferences at any reasonable time when requested to do so by representatives of the LA or the Department.
- (4) In the event plans or surveys are found to be in error during construction of the SECTION and revisions of the plans or survey corrections are necessary, the ENGINEER agrees that he will perform such work without expense to the LA, even though final payment has been received by him. He shall give immediate attention to these changes so there will be a minimum delay to the Contractor.
- (5) That basic survey notes and sketches, charts, computations and other data prepared or obtained by the Engineer pursuant to this AGREEMENT will be made available, upon request, to the LA or the DEPARTMENT without cost and without restriction or limitations as to their use.
- (6) That all plans and other documents furnished by the ENGINEER pursuant to this AGREEMENT will be endorsed by him and will show his professional seal where such is required by law.

The LA Agrees, SEE EXHIBIT 1 FOR REVISIONS/DELETIONS

1. To pay the ENGINEER as compensation for all services performed as stipulated in paragraphs 1a, 1g, 1i, 2, 3, 5 and 6 in accordance with one of the following methods indicated by a check mark:
- a. A sum of money equal to _____ percent of the awarded contract cost of the proposed improvement as approved by the DEPARTMENT.
 - b. A sum of money equal to the percent of the awarded contract cost for the proposed improvement as approved by the DEPARTMENT based on the following schedule: SEE EXHIBIT B FOR PROJECT COSTS

Schedule for Percentages Based on Awarded Contract Cost

Awarded Cost	Percentage Fees	(see note)
Under \$50,000	_____	%
	_____	%
	_____	%
	_____	%
	_____	%

Note: Not necessarily a percentage. Could use per diem, cost-plus or lump sum.

2. To pay for services stipulated in paragraphs 1b, 1c, 1d, 1e, 1f, 1h, 1j & 1k of the ENGINEER AGREES at actual cost of performing such work plus _____ percent to cover profit, overhead and readiness to serve - "actual cost" being defined as material cost plus payrolls, insurance, social security and retirement deductions. Traveling and other out-of-pocket expenses will be reimbursed to the ENGINEER at his actual cost. Subject to the approval of the LA, the ENGINEER may sublet all or part of the services provided under the paragraph 1b, 1c, 1d, 1e, 1f, 1h, 1j & 1k. If the ENGINEER sublets all or part of this work, the LA will pay the cost to the ENGINEER plus a five (5) percent service charge.

"Cost to Engineer" to be verified by furnishing the LA and the DEPARTMENT copies of invoices from the party doing the work. The classifications of the employees used in the work should be consistent with the employee classifications for the services performed. If the personnel of the firm, including the Principal Engineer, perform routine services that should normally be performed by lesser-salaried personnel, the wage rate billed for such services shall be commensurate with the work performed.

3. That payments due the ENGINEER for services rendered in accordance with this AGREEMENT will be made as soon as practicable after the services have been performed in accordance with the following schedule:
 - a. Upon completion of detailed plans, special provisions, proposals and estimate of cost - being the work required by paragraphs 1a through 1g under THE ENGINEER AGREES - to the satisfaction of the LA and their approval by the DEPARTMENT, 90 percent of the total fee due under this AGREEMENT based on the approved estimate of cost.
 - b. Upon award of the contract for the improvement by the LA and its approval by the DEPARTMENT, 100 percent of the total fee due under the AGREEMENT based on the awarded contract cost, less any amounts paid under "a" above.

By Mutual agreement, partial payments, not to exceed 90 percent of the amount earned, may be made from time to time as the work progresses.

4. That, should the improvement be abandoned at any time after the ENGINEER has performed any part of the services provided for in paragraphs 1a, through 1h and prior to the completion of such services, the LA shall reimburse the ENGINEER for his actual costs plus _____ percent incurred up to the time he is notified in writing of such abandonment -"actual cost" being defined as in paragraph 2 of THE LA AGREES.
5. That, should the LA require changes in any of the detailed plans, specifications or estimates except for those required pursuant to paragraph 4 of THE ENGINEER AGREES, after they have been approved by the DEPARTMENT, the LA will pay the ENGINEER for such changes on the basis of actual cost plus 200.0 percent to cover profit, overhead and readiness to serve -"actual cost" being defined as in paragraph 2 of THE LA AGREES. It is understood that "changes" as used in this paragraph shall in no way relieve the ENGINEER of his responsibility to prepare a complete and adequate set of plans and specifications.

It is Mutually Agreed,

1. That any difference between the ENGINEER and the LA concerning their interpretation of the provisions of this Agreement shall be referred to a committee of disinterested parties consisting of one member appointed by the ENGINEER, one member appointed by the LA and a third member appointed by the two other members for disposition and that the committee's decision shall be final.
2. This AGREEMENT may be terminated by the LA upon giving notice in writing to the ENGINEER at his last known post office address. Upon such termination, the ENGINEER shall cause to be delivered to the LA all surveys, permits, agreements, preliminary bridge design & hydraulic report, drawings, specifications, partial and completed estimates and data, if any from traffic studies and soil survey and subsurface investigations with the understanding that all such material becomes the property of the LA. The ENGINEER shall be paid for any services completed and any services partially completed in accordance with Section 4 of THE LA AGREES.
3. That if the contract for construction has not been awarded one year after the acceptance of the plans by the LA and their approval by the DEPARTMENT, the LA will pay the ENGINEER the balance of the engineering fee due to make 100 percent of the total fees due under this AGREEMENT, based on the estimate of cost as prepared by the ENGINEER and approved by the LA and the DEPARTMENT.
4. That the ENGINEER warrants that he/she has not employed or retained any company or person, other than a bona fide employee working solely for the ENGINEER, to solicit or secure this contract, and that he/she has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the ENGINEER, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this contract. For Breach or violation of this warranty the LA shall have the right to annul this contract without liability.

IN WITNESS WHEREOF, the parties have caused the AGREEMENT to be executed in quadruplicate counterparts, each of which shall be considered as an original by their duly authorized officers.

Executed by the LA:

McHenry County of the
(Municipality/Township/County)

ATTEST:

State of Illinois, acting by and through its

By _____

Clerk

By _____

(Seal)

Title _____

Executed by the ENGINEER:



Applied Research Associates, Inc

100 Trade Centre Dr. Ste. 200

Champaign, IL 61820

ATTEST:

By Debra L. Jeffan

By [Signature]

Title Notary Public

William R. Vavrik, Ph.D., P.E.

Title Vice President

Approved

Date

Department of Transportation

Regional Engineer

EXHIBIT 1

On Page 2 under “the LA Agrees”, Delete Paragraph 1 and replace it with the following:

1. To pay the ENGINEER within fifteen (15) days following LA’s approval of ENGINEER’s invoices as compensation for all services performed as stipulated in Paragraphs 1g, 2, 3, 5, and 6, under “The LA Agrees”, on a Cost Plus Fixed Fee basis according to the Schedule of Compensation contained in Exhibit B of the Agreement for the successful completion of services. The total compensation shall not exceed \$118,670.77.
2. Remove paragraph 3 (on page 3) in its entirety.

On Page 3 under “It is Mutually Agreed”

1. Remove:

Article 3, starting with the words “That if the contract for construction [...]”
2. Add:
 5. ENGINEER shall not commence performance of any services under this Agreement until the LA has issued a written Notice to Proceed.

EXHIBIT A

PAVEMENT CONDITION SURVEY SERVICES-SCOPE OF WORK

Project Description

Applied Research Associates, Inc. (ARA) will provide pavement condition surveys and pavement management services to the McHenry County Division of Transportation (MCDOT). ARA will collect pavement right-of-way images on the 124 pavement management segments that are on the MCDOT roadway network and analyze the pavement surface distresses from the images. The distresses will be rated in the Condition Rating System (CRS) method as defined by the Illinois Department of Transportation in conjunction with the Illinois Center for Transportation. The CRS scores will then be used for maintenance and rehabilitation planning for the roadway pavements and presented to the MCDOT in a written report as well as two PowerPoint presentations to the various County boards.

Scope of services

Task 1. Roadway Image Collection and Kick-off Meeting

ARA will survey the entire MCDOT highway network using a digital survey vehicle(DSV). The DSV will be outfitted to provide the following data sets:

- High Definition Pavement imagery
- Roadway/right-of-way imagery
- Longitudinal and transverse laser profiling (International Roughness Index [IRI] and rutting)
- Roadway geometrics (grade, cross-slope, radius of curvature)

Vehicles will be calibrated to ensure that measurements taken are complete and accurate to ensure that the data set is captured while the field crew is on-site is complete. Data checks, as well as quality control of imagery, are performed to ensure that the data and image deliverables will be a complete coverage of the 124 MCDOT pavement segments.

ARA will meet with MCDOT staff to discuss the project plan and to collect the updated database information from the roadway segments that are to be surveyed.

Task2. Pavement Structural Testing

DELETED

Task3. Pavement Distress Rating

ARA will import the collected field data (minus the imagery) into the MCDOT PAVEMENTView existing database. Additionally, the IRI and rutting data will be used as inputs into the CRS procedure. The data will be quality controlled to ensure that the processed data accurately represent conditions on the MCDOT network. ARA will perform the surface condition rating of all pavements using the Condition Rating System (CRS) methodology as revised by the Illinois Center for Transportation (ICT).

Task 4. Pavement Performance Model Development and Meeting

ARA will review the pavement performance models in the MCDOT pavement management system and recommend any necessary revisions based on the evaluation of the updated pavement condition information. Input from both the roads similar to and MCDOT's will be used to develop deterioration curves that represent actual conditions on MCDOT pavements.

ARA will meet with MCDOT staff to discuss the pavement ratings and the current pavement performance models.

Task 5. Traffic Information Conversion

ARA will convert MCDOT's most recent available ADT information to 18-kip equivalent single axle loads (ESALs), which will be used in developing the treatments for the 3 MCDOT pavement classes. The ADT information will be provided to ARA by MCDOT. ARA will work with MCDOT to ensure that roadways are classified according to the level of traffic they experience (high or low) and that the division is practical and useful for management of the MCDOT network.

Task 6. Maintenance and Rehabilitation Planning and Meeting

ARA can assist the MCDOT beyond the defined scope from the RFQ. ARA can use the forecasted condition to aid development of a Capital Improvement Program. In addition to importing data and updating the performance models in Cartegraph's PAVEMENTView+ module, ARA can update maintenance and rehabilitation activities and unit costs, and network goals such as a yearly budget constraint or desired condition level. With all these factors considered, a better understanding of future roadway conditions and budgetary needs can be realized.

ARA will meet with MCDOT staff to discuss the current pavement rehabilitation techniques and methods used on the MCDOT roadways to incorporate that data with the condition data. The planning budgets for capital improvement will be decided by MCDOT and provided to ARA for 5 budget scenarios that will be used by ARA to prepare the MCDOT 5 year Capital Improvement Plan.

Task 7. Data Import

All of the compiled data elements will be imported into the MCDOT Cartegraph database (software version 8.2a, as specified). Each data element will be loaded into the PAVEMENTView module as new inspection events based on the MCDOT 124 pavement management segments. The pavement imagery will be accessible from within PavementView. A feature class will be created from the collected imagery, which will allow integration into the MCDOT's geodata. Any GIS data will be formatted to be compatible with ArcInfo version 10.0.

Task 7. Report and Meetings

All of the compiled data elements will be imported into a written report with maps, figures and tables to show the data for the 124 pavement management segments.

ARA will present the compiled data elements and 5 year CIP plan to the McHenry County Transportation Committee as well as the overall McHenry County Board in a PowerPoint presentation.

Schedule

We anticipate a schedule of approximately 3 months. We are anticipating a Notice to Proceed on September 20, 2011. It is our intention to schedule the field work within 3 weeks of the Notice to Proceed as well as the kick-off meeting. Once Task 1 is complete, various following tasks can begin. ARA will provide MCDOT with monthly progress reports to keep MCDOT informed of our schedule.

RESOLUTION
AMENDING AN INTERGOVERNMENTAL AGREEMENT AMENDMENT
BETWEEN MCHENRY COUNTY AND PACE SUBURBAN BUS TO MODIFY
REGISTRATION PROCEDURES FOR COORDINATED TRANSPORTATION
SERVICES

WHEREAS, on December 15, 2009, the County Board approved a contract with Pace Suburban Bus (R-200912-82-399); and

WHEREAS, this contract stipulated a rider registration process requiring registration through the County and then transmitted to Pace; and

WHEREAS, this registration process requires up to ten days before a rider can use the service; and

WHEREAS, McHenry County is desirous to streamline the registration process to allow for same day registration; and

WHEREAS, an amendment to the contract between McHenry County and Pace Suburban Bus is needed to modify the registration process; and

WHEREAS, the attached amended intergovernmental agreement between the County of McHenry and Pace Suburban Bus defines streamlined registration process, said agreement attached hereto and hereby made a part hereof.

NOW THEREFORE BE IT RESOLVED, by the County Board of McHenry County, Illinois, that the attached amended intergovernmental agreement is hereby approved; and

BE IT FURTHER RESOLVED, that the Chairman is hereby authorized to execute said agreement; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby directed to transmit two certified copies of this resolution to the Director of Transportation/County Engineer one to be forwarded to Pace Suburban Bus.

DATED at Woodstock, Illinois this 20th day of September, A.D., 2011.

KENNETH D. KOEHLER, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE COUNTY OF MCHENRY, ILLINOIS AND PACE THE SUBURBAN
BUS DIVISION OF THE
REGIONAL TRANSPORTATION AUTHORITY
As Amended May 25, 2011

THIS AGREEMENT is entered into this ____ day of _____, 2011, between the County of McHenry, a body corporate and politic (hereinafter referred to as "COUNTY"), with offices located at 16111 Nelson Road, Woodstock, Illinois, 60098 and the Suburban Bus Division of the Regional Transportation Authority, a municipal corporation created by Sections 1.04 and 3A.01 of the Regional Transportation Authority Act (70 ILCS 3615/1.04, 3A.01), with offices located at 550 West Algonquin Road, Arlington Heights, Illinois 60005 (hereinafter referred to as "PACE").

RECITALS

WHEREAS, the COUNTY and PACE are public agencies and governmental units within the meaning of the Illinois Governmental Cooperation Act, as specified at 5 ILCS 220/1, *et seq.*, and are authorized by Article 7, Section 10 of the Constitution of the State of Illinois to cooperate, contract, and otherwise associate for public purposes; and

WHEREAS, the purpose of the Intergovernmental Cooperation Act and Article 7 of the Constitution of the State of Illinois includes fostering cooperation among governmental bodies; and

WHEREAS, the COUNTY and PACE wish to cooperate in promoting and encouraging the use of public transportation by improving the availability of Paratransit services to McHenry County residents with disabilities, who are elderly, or otherwise have limited access to conventional modes of transportation; and

WHEREAS, the COUNTY and PACE propose the creation of a coordinated Paratransit PROJECT hereinafter referred to as the "McHenry Pilot Project" capable of providing improved Paratransit services to McHenry County residents who are determined to be eligible and registered for the services; and

WHEREAS, the McHenry County Implementation Task Force which is group of government, non-profit agency, and citizen representatives that have been working to improve Paratransit services in McHenry County and of which the COUNTY is a member, has asked McHenry County to act as lead agency for the McHenry Pilot Project; and

WHEREAS, the COUNTY has accepted the role of lead agency for the McHenry Pilot Project and expects that other local units of government and agencies will join the McHenry Pilot Project as Sponsors; and

WHEREAS, the current Sponsors participating in the McHenry Pilot Project are City of

Crystal Lake, City of McHenry, City of Woodstock, Dorr Township, McHenry Township and Pioneer Center for Human Services, and

WHEREAS, the COUNTY did sign a Memorandum of Understanding with the City of Marengo to provide additional hours of service through an agreement with PACE; and

WHEREAS, the COUNTY finds it necessary and desirable to contract for the services of a “Coordinator” of the McHenry Pilot Project and services in Marengo (hereinafter referred to as Coordinator) who shall be responsible for the operation of the McHenry Pilot Project and services in Marengo; and

WHEREAS, PACE is in the business of public transportation, has the necessary expertise required of a Coordinator as described herein, and is willing to provide the functions required of Coordinator; and

WHEREAS, the COUNTY and PACE desire to enter into this AGREEMENT for the purpose of establishing PACE as Coordinator and compensating PACE for its time and expertise in operating and implementing the McHenry Pilot Project and services in Marengo; and

WHEREAS the COUNTY’S costs for the term of this AGREEMENT shall not exceed four hundred sixty-one thousand one hundred dollars (\$461,100) and these funds have been allocated within the COUNTY’S current budget as described in paragraph 4.3; and

NOW THEREFORE, in consideration of the mutual promises hereinafter set forth, the parties agree as follows:

1.0 INCORPORATION OF RECITALS AND CONSTRUCTION.

- 1.1 The foregoing recitals are hereby incorporated by reference as though fully set forth herein.
- 1.2 The headings of the paragraphs and subparagraphs of this AGREEMENT are inserted for convenience of reference only and shall not be deemed to constitute part of this AGREEMENT or to affect the construction hereof.

2.0 MCHENRY PILOT PROJECT DESCRIPTION.

- 2.1 PACE shall operate the McHenry Pilot Project and services in Marengo for the provision of Paratransit services to residents of McHenry County who are determined to be eligible and registered for the services.
- 2.2 PACE shall give due consideration to the recommendations and policies of the COUNTY in implementing and operating the McHenry Pilot Project.

- 2.3 PACE shall implement paratransit service as described in **Exhibit A Description of Service** attached hereto and made a part hereof.

3.0 DEFINITIONS.

For the purposes of this AGREEMENT, the following definitions shall apply:

- 3.1 Paratransit Services mean the provision of demand responsive transportation by a carrier.
- 3.2 Carrier means a public or private entity providing passenger transportation on a regular and continuing basis.
- 3.3 Eligible Rider means any person who qualifies for participation in the McHenry Pilot Project and registers with a Sponsor for the purpose of obtaining access to the McHenry Pilot Project.
- 3.4 Sponsor means a unit of local government or an agency that will participate in the McHenry Pilot Project providing Paratransit services to its Eligible Riders using the McHenry Pilot Project.
- 3.5 Eligible Trips mean Paratransit transportation taken by Eligible Riders to destinations that are approved by the Sponsors and are acceptable to the COUNTY and PACE.
- 3.6 Administrative policies and/or procedures refer to policies and procedures required to operate the McHenry Pilot Project day-to-day operations, including, but not limited to dispatching, scheduling, reporting and billing as indicated later in this AGREEMENT, and other Policies and Procedures which may be required to operate the McHenry Pilot Project.

4.0 FUNDING.

- 4.1 The COUNTY shall pay PACE for services rendered in accordance with the requirements of this AGREEMENT.
- 4.2 PACE shall submit its invoices for services rendered in accordance with the requirements of this AGREEMENT. Each invoice shall summarize the service delivered performed, shall be submitted in a format mutually agreed to by the COUNTY and PACE, and shall request reimbursement for hours and itemized costs required to complete those tasks. Invoices for the work performed under this AGREEMENT shall be subject to review by the COUNTY. Invoices billed by PACE for services to operate the McHenry Pilot Project and services in Marengo shall be reimbursed to PACE at the rates agreed to in the contracts with carriers.

- 4.3 Total payments to PACE under the terms of this AGREEMENT shall not under any circumstances exceed four hundred sixty-one thousand, one hundred dollars (\$461,100) or as approved by the COUNTY budget authority. The source of funding is as follows: For the McHenry Pilot Project, \$275,000 in county RTA funds; \$127,500 from the McHenry County Senior Grant Fund Allocation for Program Year 2008 and \$25,000 committed from Dorr Township. For services in Marengo, \$33,600 in county RTA funds. Service levels will not exceed limits dictated by funding levels stipulated in the agreement. In the event the COUNTY requests PACE to perform work that would cause the stated amount to be exceeded, PACE shall not be responsible for such work until this AGREEMENT is modified pursuant to Article 13.0.
- 4.4 Upon receipt, review and approval of properly documented invoices, the COUNTY shall pay, or cause to be paid, to PACE the amounts invoiced, provided that the amount invoiced together with the amounts of previous partial payments do not exceed the total compensation specified in this AGREEMENT. The COUNTY may not deny a properly documented claim for compensation, in whole or in part, without cause. The COUNTY shall not be required to pay PACE more often than monthly. Upon receipt, review and acceptance of all deliverables specified in this AGREEMENT, final payment shall be made to PACE, within thirty days of receipt of billing. Payment shall be sent to:

Pace Suburban Bus Service
550 W. Algonquin Road
Arlington Heights, IL 60005
Attn: Accounting Department

5.0 DELIVERABLES.

PACE shall provide the COUNTY, on or before the expiration of this AGREEMENT, or promptly after notice of termination, the deliverables specified in Section 7.0 of this AGREEMENT.

6.0 RELATIONSHIP OF THE COUNTY, PACE, PROJECT SPONSORS, AND the IMPLEMENTATION TASK FORCE

- 6.1 PACE shall review and consider the administrative policies developed and recommended for the McHenry Pilot Project by the Implementation Task Force. However, any administrative policies recommended by Implementation Task Force shall be subject to approval and adoption by the COUNTY and PACE.
- 6.2 The COUNTY shall be responsible for the implementation and oversight of the administrative policies that have been reviewed, approved, and adopted by COUNTY and PACE.

- 6.3. The COUNTY shall be responsible for the execution and maintenance of any necessary agreements with McHenry Pilot Project Sponsors desiring to provide transportation services for their clients or riders as described in Exhibit A and Exhibit B through the McHenry Pilot Project and adherence to PROGRAM policies and procedures as determined by the COUNTY and PACE.
- 6.4 PACE shall review and consider service parameters developed and recommended for the McHenry Pilot Project by the various Sponsors, including but not limited to, service boundaries, Eligible Riders, charges for fares, days and hours of service for each Sponsor's service, and dispute resolution of issues related to Eligible Rider compliance with guidelines for usage. However, any service parameters developed by the McHenry Pilot Project Sponsors shall be subject to approval and adoption by the COUNTY and PACE.
- 6.5 PACE may contract with other Carriers for the delivery of transportation services and central call center services. Said carriers shall be subcontractors responsible to PACE.
- 6.6 PACE shall review and consider any service standards developed by the Implementation Task Force and the Sponsors. However, PACE shall, while allowing for sponsor-specific service standards, work in cooperation with the COUNTY to, as much as possible, establish consistent service standards applicable to the entire McHenry Pilot Project, subject to the approval of the COUNTY.
- 6.7 PACE shall have the right to make minor revisions to the service standards upon written notification to, and concurrence by, the COUNTY.

7.0 PACE'S RESPONSIBILITIES.

- 7.1 PACE shall be responsible for performance of the day-to-day operations of the McHenry Pilot Project and services in Marengo and shall enter into contracts with Carriers as subcontractors for the delivery of Paratransit services and scheduling and dispatch services for the Dispatch Center.
- 7.2 PACE shall be responsible for the submission of invoices to the COUNTY and a monthly report outlining specific information relative to the cost of services related to the operation and management of the McHenry Pilot Project and services in Marengo that have been provided by PACE directly or through carriers and subcontractors.
- 7.3 PACE shall cooperate with the COUNTY and agrees to consider incorporation of alternative revenue sources.
- 7.4 Within the approved budget, PACE agrees to maintain appropriate PACE employee, carrier, and subcontractor staffing levels to perform all necessary

operating and administrative functions.

- 7.5 PACE may limit the hours available for the scheduling of trip requests and dispatching of vehicles. Determination of the hours and days of service for Pace funded services provided to satisfy federal and/or state ADA guidelines shall not require the approval of the COUNTY.
- 7.6 PACE subcontractor dispatch personnel shall be available during all hours in which a vehicle transporting an Eligible Rider is in service.
- 7.7 Within forty-five (45) days following the end of each month, PACE shall supply the COUNTY with data relative to the quantity, quality, and cost of services provided by PACE and its subcontractors.
- 7.8 PACE shall provide a standardized monthly report to the COUNTY as described in **Exhibit C**.
- 7.9 Although PACE shall not be responsible for any failure to provide service due to circumstances beyond its control, PACE shall be responsible for making every reasonable effort to restore service as soon as practical under the circumstances.
- 7.10 PACE shall be responsible for requiring that all vehicle operators of Carriers providing services pursuant to this AGREEMENT possess an Illinois license appropriate to the vehicle being operated and all vehicle operators must meet the minimum requirements as mandated by Federal regulations, the State of Illinois and all applicable laws or regulations of governmental bodies having jurisdiction over the Contractor's operations and vehicles. PACE and all Carriers shall agree that any and all licenses as may be required by State or local governmental and/or regulating authorities shall be maintained in good standing annually.

8.0 COUNTY'S RESPONSIBILITIES.

Subject to the funding limitations of this AGREEMENT, and in accordance with Article 4.0 of this AGREEMENT, the COUNTY agrees to reimburse PACE for any reasonable administrative and operating costs, in connection with the operation of the McHenry Pilot Project, and services in Marengo that may be incurred when fulfilling its obligations pursuant to this AGREEMENT. Such costs shall include, but not be limited to, operating, administrative, and costs incurred by Pace to administer, manage, and operate the McHenry Pilot Project and Marengo demand response services over and above the normal costs associated with operating current Pace funded services in McHenry County subject to prior approval by the COUNTY.

This reimbursement shall not exceed four hundred sixty-one thousand, one hundred dollars (\$461,100) as previously noted in Section 4.3 of this AGREEMENT. In the event the

COUNTY requests PACE to perform work that would cause the stated amount to be exceeded, PACE shall not be responsible for such work until this AGREEMENT is modified pursuant to Article 13.0.

9.0 FORCE MAJEURE.

Neither party hereto shall be deemed to be in default or to have breached any provision of this AGREEMENT as a result of any delay, failure in performance or interruption of services resulting directly or indirectly from acts of God, acts of civil or military authority, civil disturbance, or war, which are beyond the control of such non-performing party.

10.0 MISCELLANEOUS.

- 10.1 Upon request, the COUNTY shall be entitled to have access to the records maintained by PACE with respect to this AGREEMENT only.
- 10.2 Any failure of either the COUNTY or PACE to strictly enforce any term, right or condition of this AGREEMENT shall not be construed as a waiver of such term, right or condition.

11.0 GOVERNMENT REGULATIONS.

- 11.1 The COUNTY and PACE shall each comply with all applicable local, State and Federal statutes, ordinances and regulations and obtain licenses or permits, or other mandated approvals, now in force, or which may hereafter be in force, pertaining to this AGREEMENT and the McHenry Pilot Project and services in Marengo.
- 11.2 With respect to employees, laborers, contractors, subcontractors and any and all other persons entities employed, directed or controlled by PACE, and whose services are used in the fulfillment of any contractual agreement or obligation with the COUNTY, PACE hereby agrees and promises that they will carry out all necessary actions to insure compliance with the documentation requirements and all other terms, provisions and requirements of the Immigration Reform and Control Act of 1986, as amended, 8 U.S.C.A. Sect, 201 et. seq.
- 11.3 With respect to employees, laborers, contractors, subcontractors and any and all other persons or entities employed, directed or controlled by PACE, and whose services are used in fulfillment of any contractual agreement or obligation with the COUNTY, PACE hereby agrees and promises that it will carry out all necessary actions to insure compliance with the terms, provisions and requirements of the Federal Minimum Wage Act, 29 U.S.C.A. Sec. 201 et. seq.
- 11.4 With respect to employees, laborers, contractors, subcontractors and any and all

other persons or entities employed, directed or controlled by PACE, and whose services are used in fulfillment of any contractual agreement or obligation with the COUNTY, PACE hereby agrees and promises that they will carry out all necessary actions to insure compliance with the terms, provisions and requirements of the Prevailing Wage Act, 820 ILCS 130/01 et. seq., as amended;

- 11.5 The parties agree that any non-compliance by PACE with paragraphs 1, 2, or 3 above, shall render this Agreement voidable at the sole discretion of the COUNTY with right to cure under 22.0 TERMINATION.

12.0 INDEMNIFICATION AND INSURANCE.

- 12.1 PACE shall indemnify, hold harmless, and defend the COUNTY or any of its officers, employees, or agents from and against all liability, claims, demands, causes of action, losses and expenses, including court costs and attorney's fees arising out of or related to any loss, damage, injury, death, loss or damage to property or which may be alleged resulting from the negligence of PACE, its officers, agents, and employees in the performance of this AGREEMENT to the fullest extent PACE is so authorized under the law, provided, however, that PACE shall not be obligated to indemnify, hold harmless and defend the COUNTY for intentional wrongful acts or omissions by COUNTY officials, employees, agents, contractors, subcontractors or personnel. Further, PACE shall require that its subcontractors indemnify, defend and hold harmless PACE and the COUNTY, its officers, employees and elected officials from and against any claims, liability or judgments resulting from, or caused by, the negligence of such subcontractor.
- 12.2 PACE shall require each of its subcontractors to maintain for the duration of the contract and any extensions thereof, at the subcontractor's expense, insurance that includes "Occurrence" basis wording and is issued by a company or companies qualified to do business in the State of Illinois and in compliance with PACE Insurance Requirements as set forth in Exhibit D attached hereto.
- 12.3 PACE agrees that with respect to the above required insurance that:
- 12.3.1 PACE shall require each of its subcontractors to name the COUNTY as additional insured on all liability policies, and acknowledges that any insurance maintained by the COUNTY shall apply in excess of, and not contribute to, insurance provided by PACE or its subcontractors;
- 12.3.2 Acceptance or approval of insurance shall in no way modify or change the indemnity or hold harmless clauses in this Agreement, which shall continue in full force and effect; and

13.0 AMENDMENT OR MODIFICATION OF THIS AGREEMENT.

This AGREEMENT may be amended or modified only by written instrument signed by

both the COUNTY and PACE.

14.0 ENTIRE AGREEMENT.

This AGREEMENT represents the entire agreement between the COUNTY and Pace Suburban Bus Service and supersedes all prior negotiations, representations or agreements, either written or oral.

15.0 AGREEMENT BINDING.

This AGREEMENT shall be binding upon the parties and their respective transferees, successors, and assigns.

16.0 NOTICES REQUIRED UNDER THIS AGREEMENT.

Any notice required by the provisions of this AGREEMENT shall be mailed to:

Pace Suburban Bus
550 West Algonquin Road
Arlington Heights, IL 60005
Attn: Melinda J.Metzger

County of McHenry
16111 Nelson Road
Woodstock, Illinois, 60098
Attn: Joseph R. Korpalski, Jr.,
P.E.

17.0 PERIODIC REVIEW.

PACE and the COUNTY agree that periodically, but not less than semi-annually, this AGREEMENT shall be subject to review by the parties.

18.0 SEVERABILITY.

The invalidity or enforceability of any of the provisions of this AGREEMENT shall not affect the validity or enforceability of the remainder of this AGREEMENT.

19.0 GOVERNING LAW.

The parties agree that any dispute, action claim, cause of action , breach of contract, or other remedy or relief sought pursuant to the provisions of this AGREEMENT shall be controlled and decided by the laws of the State of Illinois. The parties further agree that the appropriate venue for such disputes shall be the Circuit Court for the 22nd Judicial Circuit, McHenry County Illinois.

20.0 TERM OF THIS AGREEMENT.

20.1 The term of this AGREEMENT shall begin August 1, 2010 and shall continue in full force and effect through November 30, 2010 and thereafter shall renew and shall remain in effect for as long as there are sufficient funds to support the service and is subject to amendment pursuant to Paragraph 13.0 until one of the following

events occurs: (a) this AGREEMENT is superseded by a subsequent Agreement; or (b) this AGREEMENT is terminated by one of the parties as provided herein at paragraph 22.0.

20.2 The COUNTY shall not be liable for, and shall not pay PACE for, any work completed after this AGREEMENT'S expiration or termination.

21.0 NON-DISCRIMINATION.

The parties shall cooperate to ensure that no person shall be denied the opportunity to participate in nor be subjected to discrimination in the conduct of this service because of race, creed, color, age, sex, national origin, nor the presence of any sensory, mental or physical disability, nor in any manner contrary to applicable local ordinance, State and Federal laws and regulations, specifically including Title VI of the Civil Rights Act of 1964; Title 49, Code of Federal Regulations, Part 21 - Nondiscrimination in Federally Assisted projects of the Department of Transportation.

22.0. TERMINATION.

Either party may terminate this AGREEMENT upon providing sixty (60) days' written notice to the other party.

23.0. THE PARTIES AGREE.

The parties agree that the preamble and whereas clauses are terms of this agreement as though fully set forth hereunder.

24.0. DELEGATED AUTHORITY.

This delegated authority for the COUNTY has duly approved this agreement.

25.0. PACE BOARD AUTHORITY.

This agreement has been properly authorized by the Pace Board of Directors.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed as of the date indicated above by their duly authorized representatives.

COUNTY of MCHENRY

PACE

Thomas J. Ross

Executive Director

Print Title

Print Title

Date: _____

Date: _____

EXHIBIT A
MCHENRY PILOT PROJECT AND MARENGO DESCRIPTION OF SERVICES

The coverage described here does not replace ADA trips or Mid-Day Dial-A-Ride. It is meant to complement the fixed routes in the service area when other services are not available.

TYPE OF SERVICE	Curb-to-curb, dial-a-ride bus service
SERVICE OPERATED BY	Pace will contract with transportation provider(s) (the "Contractor") to provide the service which is the subject of this Agreement.
TRIP RESERVATION METHOD	<p><u>McHenry Pilot Project</u> Maximum of seven-day advance reservation and minimum of one-day advance reservation.</p> <p>Reservation Hours: Monday to Friday 6:30am to 6:30pm</p> <p>Trip reservations for McHenry Township shall be processed for services to be provided directly by McHenry Township. Trip information shall be communicated to McHenry Township a day prior to the trip request.</p> <p>Subscription service is not allowable.</p> <p><u>Marengo</u> Reservation Hours: Monday to Friday 8:00am to 4:00pm Sixty (60) minutes in advance; Saturday services requires one day advance notice.</p>
SERVICE AREA	<p><u>McHenry Pilot Project</u> The area within McHenry County defined by:</p> <p>The borders of Dorr Township and McHenry Township and</p> <p>The borders of the City of Crystal Lake, the City of McHenry, and the City of Woodstock</p> <p>Service includes inter-transportation to and from the service boundaries designated above. In addition, service from the designated areas to:</p> <ol style="list-style-type: none">1) Valley Hi Nursing Home2) Fox Lake Metra station3) McHenry Co. Division of Transportation <p>Service between these three locations and the designated areas is not included. Service shall be provided directly to these three locations.</p>

Within three-quarters of a mile of Route 120 between the City of McHenry and the City of Woodstock; within three-quarters of a mile of Route 14 between the City of Woodstock and the City of Crystal Lake; within three-quarters of a mile of Route 31 between the City of McHenry and the City of Crystal Lake.

Marengo

1. City of Marengo (city limits)
2. Marengo Township Limits
3. Riley Township Limits
4. Village of Union (Village Limits)

**SERVICE
HOURS**

McHenry Pilot Project

Monday through Friday- 6:00 a.m. to 7:00 p.m.;
Saturday- 9:00 a.m. to 5:00 p.m.

Marengo

Monday through Friday- 9:00 a.m. to 5:00 p.m.;
Saturday- 8:00 a.m. to 12:00 p.m. (noon)

McHenry Pilot Project and Marengo- Service will not operate on the following holidays on the days observed:

New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Eve, and Christmas Day.

FARES

McHenry Pilot Project

All trips beyond current service area or current service hours provided by Pace, cities, townships, and the Pioneer Center –

\$3.00 per one-way trip for all passengers over age 7.

Companions: Companions pay full fare of \$3.00.

Companions limited to vehicle capacity. Up to two (2) children under the age of 7 may ride free with fare-paying passenger.

Marengo

Seniors/Students/Disabled Persons - \$0.75

Other - \$1.50

**MCHENRY
PILOT
PROJECT
PRIORITY FOR
ASSIGNING
FUNDING
SOURCE**

Trips will be assigned for callers and by funding source based on the following hierarchy, as applicable for each customer:

1. Fixed Route
2. ADA
3. Mid-Day Dial-A-Ride
4. Local Dial-A-Ride

- Crystal Lake
 - McHenry
 - Woodstock
 - McHenry Township
5. Local Subscription for Pioneer clients (when available)
 6. McHenry Pilot Project

**RIDER
ELIGIBILITY**

McHenry Pilot Project-

Eligibility is determined by the County of McHenry and participating Sponsors.

The general public is eligible in the City of Crystal Lake, the City of McHenry, and the City of Woodstock and along the routes described in Service Area above.

Seniors and disabled persons are eligible in McHenry Township and unincorporated Dorr Township.

Marengo- General Public is eligible for Marengo Services.

**RIDER
REGISTRATION
FOR MCHENRY
PILOT
PROJECT**

The County of McHenry shall submit registration forms to Pace through a designated e-mail box. Pace shall enter registrations within three to five business days. Pace shall maintain a database of registered riders. Riders must be registered for service.

Passengers are to be referred to McHenry County Division of Transportation at 815-334-4985 for registration.

**Revised
Rider
Registration
Process
May 25, 2011**

McHenry Pilot Project shall waive submission of passenger registration forms to Pace effective **June 13, 2011**.

Passenger requests for transportation under the ***McHenry Pilot Project*** shall be provided upon verbal verification from the passenger during the trip booking process that they qualify for service as a person with a disability or a senior citizen and the passenger indicates that the origin of the trip is within McHenry or Dorr Township. In addition, trip requests for general public under the ***McHenry Pilot Project*** shall be provided upon request. Registration by McHenry County DOT is no longer required. Pace will not be responsible for false information provided by passenger or the passenger's representative.

Database on registered riders shall be limited to information captured during the trip booking process.

EXHIBIT B SERVICE AREA MAPS

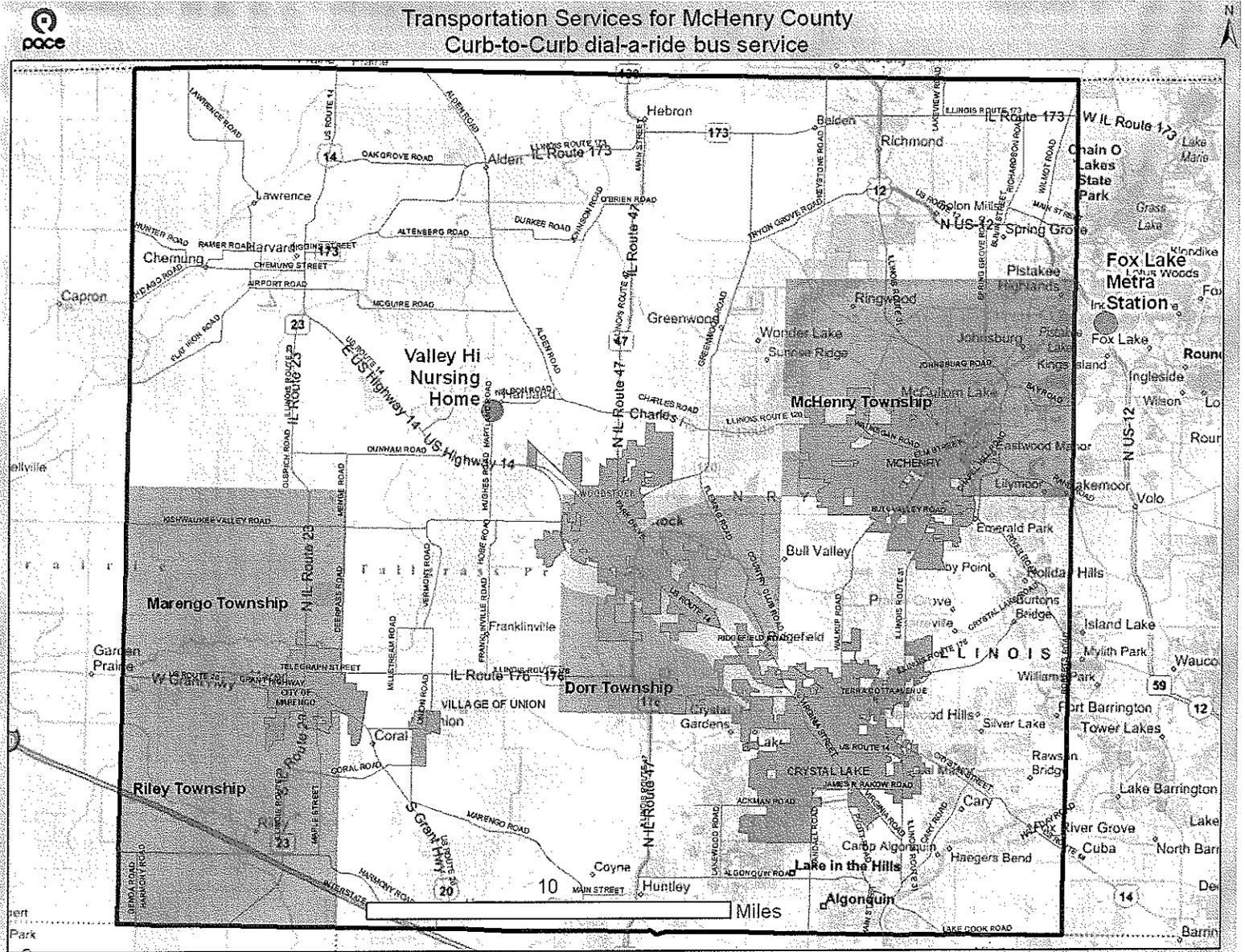


Exhibit C – McHenry Pilot Project REPORT(S) DESCRIPTION

The following is a list and brief description of each category of reports which have been designed and are being produced to generate data for the McHenry Pilot Project.

1. **Detailed Funding Source (Sponsor) Report**

The intent of this report is to produce a detailed listing of one-way trips delivered for each McHenry Pilot Project funding source (sponsor) for a user specified period of time. The normal report period would be monthly, but the report is intended to have the flexibility to produce data for shorter or longer periods as specified by the user.

The report is intended to match the design and content, as closely as possible, of the Detailed Provider Report. Data provided for each trip will include associated trip data such as rider name, scheduled pick-up time, actual pick-up time, point of origin address, destination address, funding sources (sponsors), total cost of the trip, fare for the trip, distance of the trip, revenue hours (if applicable). The exact content of the report in its final form may vary depending on the feasibility of including the large amount of data specified in one report. It is possible that the report may be broken into one or more additional reports to make the data more manageable for the user.

Plans call for the report to be sorted by provider, funding source, rider, and fare type.

2. **Monthly Funding Source (Sponsor) Invoice Report**

The intent of this report is to produce one or more summary reports of trips delivered for each funding source (sponsor) for the purposes of generating an invoice type report which may be used to bill funding sources for transportation provided. The normal report period would be monthly, but the report is intended to have the flexibility to produce data for shorter or longer periods specified by the user.

Data provided for each trip will include associated trip data necessary to provide an accounting of the amount owed by each funding source for the specified period, such as the number of one-way trips by Fare Type, total cost of the trips, total expected fare, liquidated damages deducted, the total net reimbursement. The exact content of the report in its final form may vary depending on Pace and provider needs. The report may be broken into one or more additional reports if that design is more useful.

Plans call for the report to be sorted by provider, funding source, fare type, and rider.

3. **Missed Trip Report**

The Missed Trip Report is intended to produce a list of all trips picked up 61 or more minutes after the scheduled time; the McHenry Pilot Project service guideline defining a missed trip. Sufficient detail will be provided to identify the trip within Trapeze and to

give the report user the necessary information for review.

4. **On-Time Performance Report**

The On-Time Performance Report (late pickups) is intended to produce a list of all trips picked up 16 or more minutes late; the McHenry Pilot Project service guideline defining a late trip. Sufficient detail will be provided to identify the trip within Trapeze and to give the report user the necessary information for review.

5. **Other Reports**

In addition to the reports described above, reports currently generated can also be made available. Reports currently available include:

Ridership by Category Report – A summary report by funding source indicating trips by fare type, late trips, missed trips, revenue hours, denials, and miles.

Client Trip List Report – A detailed listing alphabetically by rider last name of all trips provided during the specified period. Data included for each trip is rider name, pick-up address, drop-off address, fare type, and funding source.

Future Needs – Additional reports may be designed as needed by Pace, McHenry Pilot Project Sponsors, and with the input of McHenry County.

RESOLUTION
AUTHORIZING THE TRANSFER OF SURFACE TRANSPORTATION
PROGRAM (STP) FUNDS FOR PARTIAL REIMBURSEMENT OF THE
COUNTY ENGINEER'S ANNUAL SALARY

Section 11-CS111-00-AC

WHEREAS, the County of McHenry (hereinafter "County") has entered into an intergovernmental agreement with the Illinois Department of Transportation (hereinafter "IDOT") (executed by IDOT on June 1, 2006) whereby the County, having sufficient Surface Transportation Program funds available, desires to utilize a portion of said funds so that IDOT shall pay fifty percent (50%) of the salary of the County Engineer, the remaining fifty percent to be paid from Motor Fuel Tax funds; and

WHEREAS, the County desires to appropriate funds for the purpose of payment of the County Engineer's salary for the period beginning December 1, 2010 and ending November 30, 2011; and

WHEREAS, the County of McHenry's FEIN number is 36-6006623.

NOW THEREFORE BE IT RESOLVED, that the salary (no increase from 2010) of the County Engineer shall be one hundred thirty-three thousand three hundred dollars (\$133,300) per year effective December 1, 2010 and that the sum of one hundred thirty-three thousand three hundred dollars (\$133,300) is hereby appropriated from the Motor Fuel Tax Fund for the payment of said salary from December 1, 2010 through November 30, 2011; and

BE IT FURTHER RESOLVED, that the funding source for the above stated one hundred thirty-three thousand three hundred dollars (\$133,300) shall be sixty-six thousand six hundred fifty dollars (\$66,650) in Motor Fuel Tax Funds and sixty-six thousand six hundred fifty dollars (\$66,650) in State funds received from IDOT in exchange for the County Surface Transportation Program funds pursuant to said intergovernmental agreement. The State funds will be billed yearly and received in one lump sum from IDOT. Upon receipt of the State funds, said funds shall, pursuant to the intergovernmental agreement, be placed in the Motor Fuel Tax Fund; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby directed to distribute three certified copies of this resolution to the Director of Transportation/County Engineer, two of which will be forwarded to IDOT through its regional engineer's office at Schaumburg, Illinois; and one certified copy to the County Board Chairman, County Administrator, Associate County Administrator – Finance, County Clerk, County Treasurer, County Auditor and Human Resources Director.

DATED at Woodstock, Illinois this 20th day of September A.D., 2011.

KENNETH D. KOEHLER, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk

**RESOLUTION
APPROVING AN INTERGOVERNMENTAL AGREEMENT
WITH THE STATE OF ILLINOIS FOR THE GRAF ROAD TOWNSHIP BRIDGE
PROJECT AND APPROPRIATING FUNDS**

WHEREAS, in order to obtain federal and state funding of local highway improvements, McHenry County is required, under Illinois Department of Transportation policies, to enter into an agreement for the funding of said local improvements; and

WHEREAS, McHenry County is desirous of replacing a bridge structure on Graf Road over West Branch Piscasaw Creek in Chemung Township which will involve the construction of a new bridge and approach pavement as part of the approved FY 2011 to 2015 Highway Improvement Program; and

WHEREAS, Federal Highway Bridge Program (HBP) Funds have been committed to McHenry County for 80% of said construction costs for the approved bridge work; and

WHEREAS, the attached intergovernmental agreement between the State of Illinois and the County of McHenry defines the Local Agency participation in the improvement and the estimated local share of the cost of the improvement, said agreement attached hereto and hereby made a part hereof.

NOW THEREFORE BE IT RESOLVED, by the County Board of McHenry County, Illinois, that the attached intergovernmental agreement is hereby approved and that there is hereby appropriated the sum of three hundred four thousand seven hundred and seventeen dollars (\$304,717.00) from the County Bridge Fund, OCA code 820120-6095 for said agreement; and

BE IT FURTHER RESOLVED, that this project has been designated as Section 06-00322-01-BR; and

BE IT FURTHER RESOLVED, that the Chairman is hereby authorized to execute said agreement; and

BE IT FURTHER RESOLVED, that the County Clerk is hereby directed to transmit a certified copy of this resolution to the Director of Transportation/County Engineer.

DATED at Woodstock, Illinois this 20th day of September, A.D., 2011.

KENNETH D. KOEHLER, Chairman
McHenry County Board

ATTEST:

KATHERINE C. SCHULTZ, County Clerk



**Illinois Department
of Transportation**

**Local Agency Agreement
for Federal Participation**

Local Agency McHenry County DOT	State Contract X	Day Labor	Local Contract	RR Force Account
Section 06-00322-01-BR	Fund Type HBP	ITEP Number		

Construction		Engineering		Right-of-Way	
Job Number	Project Number	Job Number	Project Number	Job Number	Project Number
C-91-258-11	BROS-0111(064)				

This Agreement is made and entered into between the above local agency hereinafter referred to as the "LA" and the state of Illinois, acting by and through its Department of Transportation, hereinafter referred to as "STATE". The STATE and LA jointly propose to improve the designated location as described below. The improvement shall be constructed in accordance with plans approved by the STATE and the STATE's policies and procedures approved and/or required by the Federal Highway Administration hereinafter referred to as "FHWA".

Location

Local Name Graf Road Bridge Route TR 0037 Length 0.180 MI
 Termini Over West Branch Piscasaw Creek

Current Jurisdiction County Existing Structure No 056-3122

Project Description

The work consists of bridge deck and truss removal, removal of the existing abutments, construction of new integral abutments, construction of new cast-in-place concrete deck on PPC I-Beams, embankment, construction of bridge approach and connector pavement, pavement removal, HMA pavement and shoulders, guardrail, parkway restoration, and pavement markings.

Division of Cost

Type of Work	FHWA	%	STATE	%	LA	%	Total
Participating Construction	1,218,868	(*)		()	304,717	(BAL)	1,523,585
Non-Participating Construction		()		()		()	
Preliminary Engineering		()		()		()	
Construction Engineering		()		()		()	
Right of Way		()		()		()	
Railroads		()		()		()	
Utilities		()		()		()	
Materials							
TOTAL	\$ 1,218,868		\$		\$ 304,717		\$ 1,523,585

*Maximum FHWA (HBP) Participation Not to Exceed \$1,218,868.00

NOTE: The costs shown in the Division of Cost table are approximate and subject to change. The final LA share is dependent on the final Federal and State participation. The actual costs will be used in the final division of cost for billing and reimbursement.

If funding is not a percentage of the total, place an asterisk in the space provided for the percentage and explain above.

The Federal share of construction engineering may not exceed 15% of the Federal share of the final construction cost.

Local Agency Appropriation

By execution of this Agreement, the LA is indicating sufficient funds have been set aside to cover the local share of the project cost and additional funds will be appropriated, if required, to cover the LA's total cost.

Method of Financing (State Contract Work)

METHOD A---Lump Sum (80% of LA Obligation) _____
 METHOD B--- _____ Monthly Payments of _____
 METHOD C---LA's Share BALANCE divided by estimated total cost multiplied by actual progress payment.

(See page two for details of the above methods and the financing of Day Labor and Local Contracts)

Agreement Provisions

THE LA AGREES:

- (1) To acquire in its name, or in the name of the state if on the state highway system, all right-of-way necessary for this project in accordance with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and established state policies and procedures. Prior to advertising for bids, the **LA** shall certify to the **STATE** that all requirements of Titles II and III of said Uniform Act have been satisfied. The disposition of encroachments, if any, will be cooperatively determined by representatives of the **LA**, and **STATE** and the **FHWA**, if required.
- (2) To provide for all utility adjustments, and to regulate the use of the right-of-way of this improvement by utilities, public and private, in accordance with the current Utility Accommodation Policy for Local Agency Highway and Street Systems.
- (3) To provide for surveys and the preparation of plans for the proposed improvement and engineering supervision during construction of the proposed improvement.
- (4) To retain jurisdiction of the completed improvement unless specified otherwise by addendum (addendum should be accompanied by a location map). If the improvement location is currently under road district jurisdiction, an addendum is required.
- (5) To maintain or cause to be maintained, in a manner satisfactory to the **STATE** and **FHWA**, the completed improvement, or that portion of the completed improvement within its jurisdiction as established by addendum referred to in item 4 above.
- (6) To comply with all applicable Executive Orders and Federal Highway Acts pursuant to the Equal Employment Opportunity and Nondiscrimination Regulations required by the U.S. Department of Transportation.
- (7) To maintain, for a minimum of 3 years after the completion of the contract, adequate books, records and supporting documents to verify the amounts, recipients and uses of all disbursements of funds passing in conjunction with the contract; the contract and all books, records and supporting documents related to the contract shall be available for review and audit by the Auditor General and the department; and the **LA** agrees to cooperate fully with any audit conducted by the Auditor General and the department; and to provide full access to all relevant materials. Failure to maintain the books, records and supporting documents required by this section shall establish a presumption in favor of the **STATE** for the recovery of any funds paid by the **STATE** under the contract for which adequate books, records and supporting documentation are not available to support their purported disbursement.
- (8) To provide if required, for the improvement of any railroad-highway grade crossing and rail crossing protection within the limits of the proposed improvement.
- (9) To comply with Federal requirements or possibly lose (partial or total) Federal participation as determined by the **FHWA**.
- (10) (State Contracts Only) That the method of payment designated on page one will be as follows:
 - Method A - Lump Sum Payment. Upon award of the contract for this improvement, the **LA** will pay to the **STATE**, in lump sum, an amount equal to 80% of the **LA**'s estimated obligation incurred under this Agreement, and will pay to the **STATE** the remainder of the **LA**'s obligation (including any nonparticipating costs) in a lump sum, upon completion of the project based upon final costs.
 - Method B - Monthly Payments. Upon award of the contract for this improvement, the **LA** will pay to the **STATE**, a specified amount each month for an estimated period of months, or until 80% of the **LA**'s estimated obligation under the provisions of the Agreement has been paid, and will pay to the **STATE** the remainder of the **LA**'s obligation (including any nonparticipating costs) in a lump sum, upon completion of the project based upon final costs.
 - Method C - Progress Payments. Upon receipt of the contractor's first and subsequent progressive bills for this improvement, the **LA** will pay to the **STATE**, an amount equal to the **LA**'s share of the construction cost divided by the estimated total cost, multiplied by the actual payment (appropriately adjusted for nonparticipating costs) made to the contractor until the entire obligation incurred under this Agreement has been paid.
- (11) (Day Labor or Local Contracts) To provide or cause to be provided all of the initial funding, equipment, labor, material and services necessary to construct the complete project.
- (12) (Preliminary Engineering) In the event that right-of-way acquisition for, or actual construction of the project for which this preliminary engineering is undertaken with Federal participation is not started by the close of the tenth fiscal year following the fiscal year in which this agreement is executed, the **LA** will repay the **STATE** any Federal funds received under the terms of this Agreement.
- (13) (Right-of-Way Acquisition) In the event that the actual construction of the project on this right-of-way is not undertaken by the close of the twentieth fiscal year following the fiscal year in which this Agreement is executed, the **LA** will repay the **STATE** any Federal Funds received under the terms of this Agreement.

- (14) (Railroad Related Work Only) The estimates and general layout plans for at-grade crossing improvements should be forwarded to the Rail Safety and Project Engineer, Room 204, Illinois Department of Transportation, 2300 South Dirksen Parkway, Springfield, Illinois, 62764. Approval of the estimates and general layout plans should be obtained prior to the commencement of railroad related work. All railroad related work is also subject to approval by the Illinois Commerce Commission (ICC). Final inspection for railroad related work should be coordinated through appropriate IDOT District Bureau of Local Roads and Streets office.
- Plans and preemption times for signal related work that will be interconnected with traffic signals shall be submitted to the ICC for review and approval prior to the commencement of work. Signal related work involving interconnects with state maintained traffic signals should also be coordinated with the IDOT's District Bureau of Operations.
- The **LA** is responsible for the payment of the railroad related expenses in accordance with the **LA**/railroad agreement prior to requesting reimbursement from IDOT. Requests for reimbursement should be sent to the appropriate IDOT District Bureau of Local Roads and Streets office.
- Engineer's Payment Estimates in accordance with the Division of Cost on page one.
- (15) And certifies to the best of its knowledge and belief its officials:
- are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
 - have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements receiving stolen property;
 - are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, local) with commission of any of the offenses enumerated in item (b) of this certification; and
 - have not within a three-year period preceding the Agreement had one or more public transactions (Federal, State, local) terminated for cause or default.
- (16) To include the certifications, listed in item 15 above and all other certifications required by State statutes, in every contract, including procurement of materials and leases of equipment.
- (17) (State Contracts) That execution of this agreement constitutes the **LA**'s concurrence in the award of the construction contract to the responsible low bidder as determined by the **STATE**.
- (18) That for agreements exceeding \$100,000 in federal funds, execution of this Agreement constitutes the **LA**'s certification that:
- No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement;
 - If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress, in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions;
 - The **LA** shall require that the language of this certification be included in the award documents for all subawards at all ties (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (19) To regulate parking and traffic in accordance with the approved project report.
- (20) To regulate encroachments on public right-of-way in accordance with current Illinois Compiled Statutes.
- (21) To regulate the discharge of sanitary sewage into any storm water drainage system constructed with this improvement in accordance with current Illinois Compiled Statutes.
- (22) That the **LA** may invoice the **STATE** monthly for the **FHWA** and/or **STATE** share of the costs incurred for this phase of the improvement. The **LA** will submit supporting documentation with each request for reimbursement from the **STATE**. Supporting documentation is defined as verification of payment, certified time sheets, vendor invoices, vendor receipts, and other documentation supporting the requested reimbursement amount.
- (23) To complete this phase of the project within three years from the date this agreement is approved by the **STATE** if this portion of the project described in the Project Description does not exceed \$1,000,000 (five years if the project costs exceed \$1,000,000).
- (24) Upon completion of this phase of the improvement, the **LA** will submit to the **STATE** a complete and detailed final invoice with all applicable supporting supporting documentation of all incurred costs, less previous payments, no later than one year from the date of completion of this phase of the improvement. If a final invoice is not received within one year of completion of this phase of the improvement, the most recent invoice may be considered the final invoice and the obligation of the funds closed.

- (25) (Single Audit Requirements) That if the **LA** receives \$500,000 or more a year in federal financial assistance they shall have an audit made in accordance with the Office of Management and Budget (OMB) Circular No. A-133. **LA**'s that receive less than \$500,000 a year shall be exempt from compliance. A copy of the audit report must be submitted to the **STATE** with 30 days after the completion of the audit, but no later than one year after the end of the **LA**'s fiscal year. The CFDA number for all highway planning and construction activities is 20.205.
- (26) That the **LA** is required to register with the Central Contractor Registration (CCR), which is a web-enabled government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract award and the electronic payment processes. If you do not have a CCR number, you must register at <https://www.bpn.gov/ccr>. If the **LA**, as a sub-recipient of a federal funding, receives an amount equal to or greater than \$25,000 (or which equals or exceeds that amount by addition of subsequent funds), this agreement is subject to the following award terms: <http://edocket.access.gpo.gov/2010/pdf/2010-22705.pdf> and <http://edocket.access.gpo.gov/2010/pdf/2010-22706.pdf>.

THE STATE AGREES:

- (1) To provide such guidance, assistance and supervision and to monitor and perform audits to the extent necessary to assure validity of the **LA**'s certification of compliance with Titles II and III requirements.
- (2) (State Contracts) To receive bids for the construction of the proposed improvement when the plans have been approved by the **STATE** (and **FHWA**, if required) and to award a contract for construction of the proposed improvement, after receipt of a satisfactory bid.
- (3) (Day Labor) To authorize the **LA** to proceed with the construction of the improvement when Agreed Unit Prices are approved and to reimburse the **LA** for that portion of the cost payable from Federal and/or State funds based on the Agreed Unit Prices and Engineer's Payment Estimates in accordance with the Division of Cost on page one.
- (4) (Local Contracts) That for agreements with Federal and/or State funds in engineering, right-of-way, utility work and/or construction work:
- (a) To reimburse the **LA** for the Federal and/or State share on the basis of periodic billings, provided said billings contain sufficient cost information and show evidence of payment by the **LA**;
- (b) To provide independent assurance sampling, to furnish off-site material inspection and testing at sources normally visited by **STATE** inspectors of steel, cement, aggregate, structural steel and other materials customarily tested by the **STATE**.

IT IS MUTUALLY AGREED:

- (1) Construction of the project will utilize domestic steel as required by Section 106.01 of the current edition of the Standard Specifications for Road and Bridge Construction.
- (2) That this Agreement and the covenants contained herein shall become null and void in the event that the **FHWA** does not approve the proposed improvement for Federal-aid participation or the contract covering the construction work contemplated herein is not awarded within three years of the date of execution of this Agreement.
- (3) This Agreement shall be binding upon the parties, their successors and assigns.
- (3) For contracts awarded by the **LA**, the **LA** shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any USDOT – assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The **LA** shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of USDOT – assisted contracts. The **LA**'s DBE program, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31U.S.C. 3801 et seq.). In the absence of a USDOT – approved **LA** DBE Program or on State awarded contracts, this Agreement shall be administered under the provisions of the **STATE**'s USDOT approved Disadvantaged Business Enterprise Program.
- (4) In cases where the **STATE** is reimbursing the **LA**, obligations of the **STATE** shall cease immediately without penalty or further payment being required if, in any fiscal year, the Illinois General Assembly or applicable Federal Funding source fails to appropriate or otherwise make available funds for the work contemplated herein.
- (5) All projects for the construction of fixed works which are financed in whole or in part with funds provided by this Agreement and/or amendment shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) unless the provisions of that Act exempt its application

ADDENDA

Additional information and/or stipulations are hereby attached and identified below as being a part of this Agreement.

Number 1 Location Map

(Insert addendum numbers and titles as applicable)

The LA further agrees, as a condition of payment, that it accepts and will comply with the applicable provisions set forth in this Agreement and all exhibits indicated above.

APPROVED

Local Agency

Kenneth D. Koehler

Name of Official (Print or Type Name)

County Board Chairman

Title (County Board Chairperson/Mayor/Village President/etc.)

(Signature)

Date

The above signature certifies the agency's TIN number is
36-6006623 conducting business as a Governmental
Entity.

DUNS Number 034507868

APPROVED

State of Illinois
Department of Transportation

Gary Hannig, Secretary of Transportation

Date

By: _____

(Delegate's Signature)

(Delegate's Name - Printed)

Christine M. Reed, Director of Highways/Chief Engineer

Date

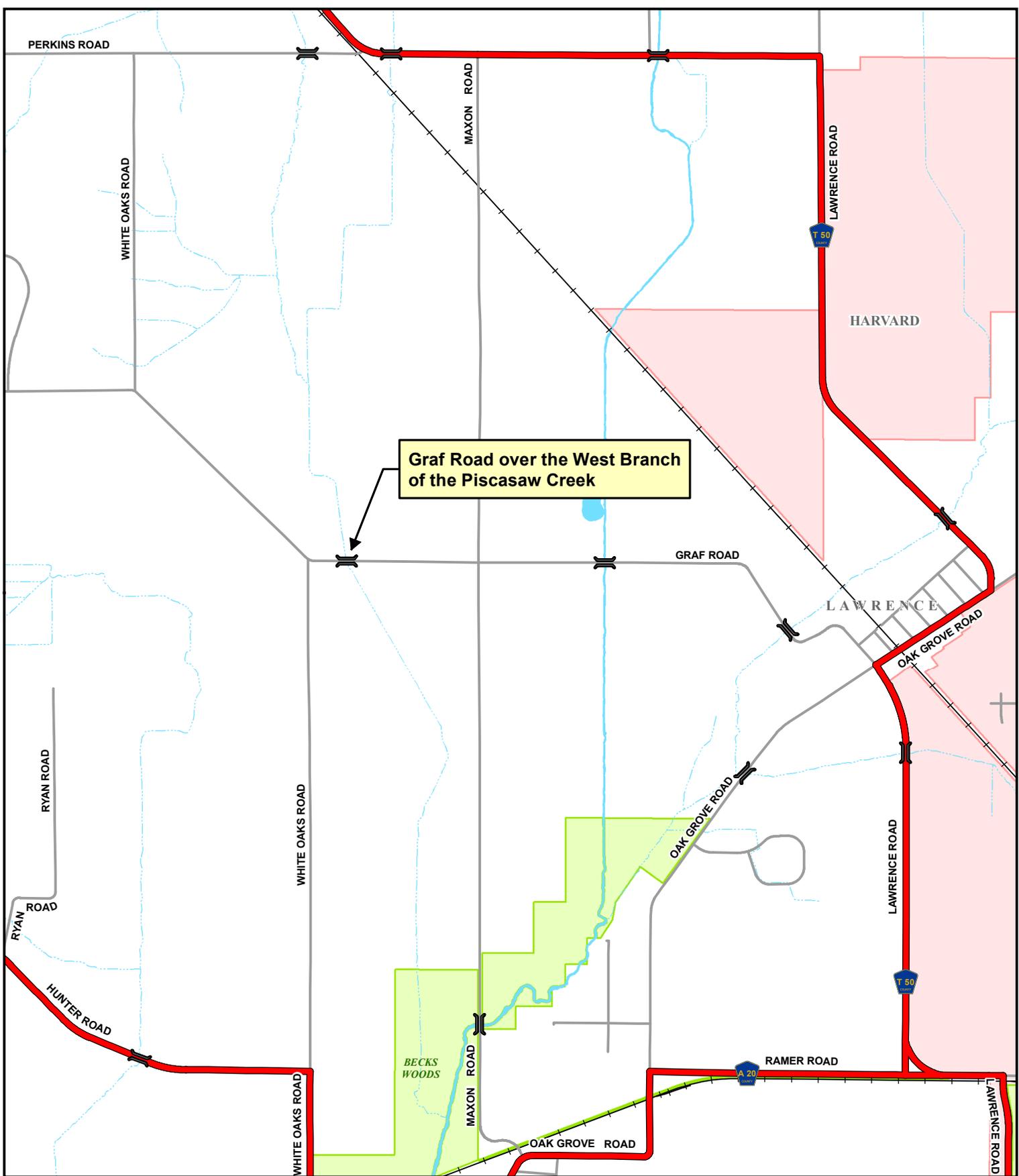
Ellen J. Schanzle-Haskins, Chief Counsel

Date

Matthew R. Hughes, Acting Director of Finance and Administration

Date

NOTE: If signature is by an APPOINTED official, a resolution authorizing said appointed official to execute this agreement is required.



Graf Road over the West Branch of the Piskasaw Creek

DATE
September 2, 2011

SOURCE
McHenry County DOT GIS

PROJECTION
Transverse Mercator
NAD 1983 StatePlane Illinois East

DISCLAIMER
Information on this map may contain inaccuracies or typographical errors. Information may be changed or updated without notice. Information on this map is provided "as-is" without warranty of any kind, either express or implied, including (without limitation) any implied warranties of merchantability or fitness for a particular purpose. In no event will McHenry County be liable to you or to any third party for any direct, indirect, incidental, consequential, special or exemplary damages or lost profits resulting from any use or misuse of this information. Information herein has been reproduced from original sources. Information produced on this map should not be used in place of a survey or legal documents.

LEGEND

- County Route
- State/US Route
- Interstate Route
- Municipal/Township Route
- Rail Road
- Hydrography

SCALE
1 inch = 2,000 feet

0 500 1,000 1,500 2,000 Feet

GRAF ROAD OVER THE WEST BRANCH OF THE PISCASAW CREEK

McHenry County
Division of Transportation

