

IN THE MATTER OF THE APPLICATION OF	)	
<b>SALVADOR OLIVO</b> , OWNER,	)	
FOR AN AMENDMENT OF THE UNIFIED DEVELOPMENT	)	2024-021
ORDINANCE OF McHENRY COUNTY, ILLINOIS FOR	)	Z25-0006
<b>A RECLASSIFICATION AND A CONDITIONAL USE WITH</b>	)	
<b>VARIATION</b>	)	

WHEREAS, your Petitioner, **SALVADOR OLIVO**, OWNER, as your Applicant, has filed a petition with the McHenry County Zoning Board of Appeals requesting the issuance of a Map Amendment and Conditional Use with Variance as it relates to the McHenry County Unified Development Ordinance, as it relates to the real property more fully described as:

Part of the South Half of the Southwest Quarter of Section 25, Township 45 North, Range 5 East of the Third Principal Meridian, described as follows: Beginning at the Southwest corner of said Southwest Quarter of Section 25; thence North 00 degrees 00 minutes 34 seconds West along the West line thereof, 605.83 feet; thence South 89 degrees 56 minutes 35 seconds East parallel with the South line of said Southwest Quarter, 381.55 feet; thence South 00 degrees 00 minutes 34 seconds East parallel with the said West line, 605.83 feet to the South line of said South Half of the Southwest Quarter; thence North 89 degrees, 56 minutes 35 seconds West along the said South line, 381.52 feet to the Place of Beginning, in McHenry County, Illinois  
PIN 06-25-300-010

The subject property is located on ***the northeast side of the intersection of Busse and Dunham Roads, with a common address of 21018 Dunham Rd, Marengo, Illinois, in Dunham Township.***

WHEREAS, the Application requests reclassification of the subject property from its present classification which is "A-2" Agriculture District to "B-1" Neighborhood Business District.

WHEREAS, the Application requests a Conditional Use be granted for an offsite services business.

WHEREAS, the Application requests a Variation of the subject property to allow for a reduced street setback of thirteen (13) feet instead of the minimum thirty (30) feet required.

WHEREAS, the subject property consists of approximately five (5) **acres** in which a 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 ***did recommend by a vote of 7 ayes***

**and 0 nays the Denial of a reclassification from “A-2” Agriculture zoning to “B-1” Neighborhood Business zoning and a CONDITIONAL USE for an offsite services business with a Variation of the subject property to allow for a reduced street setback of thirteen (13) feet instead of the minimum thirty (30) feet required subject to the following conditions:**

- 1. The Conditional Use shall expire ten (10) years from the date of approval by the McHenry County Board.**
- 2. The Conditional Use shall substantially conform to the Site Plan stamped Received October 9, 2024, by the Zoning Division.**
- 3. Within four (4) months of approval by the McHenry County Board, apply for an Access Permit from the McHenry County Division of Transportation.**
- 4. Within six (6) months of approval by the McHenry County Board, provide the McHenry County Division of Transportation with a Plat of Dedication for dedication along Dunham Road.**
- 5. Within four (4) months of approval by the McHenry County Board, apply for building permits to bring buildings into compliance with the applicable building codes.**
- 6. Within one (1) year of approval by the McHenry County Board, establish a vegetative visual barrier along the entire Dunham Road frontage (north of the new Right-of-Way line) and along Busse Road at least one hundred seventy-five (175) north from the new Dunham Road Right-of-Way. The vegetative shall be at least four (4) feet in height at the time of planting, with the ability of reaching at least six (6) feet in height within three (3) growing seasons.**
- 7. All other 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 Map Amendment and Conditional Use Permit and a Variation as set forth in the McHenry County Unified Development Ordinance and the Illinois Compiled Statutes have been met.

NOW, THEREFORE BE IT ORDAINED, that the Unified Development 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 reclassification from “A-2” Agriculture zoning to “B-1” Neighborhood Business zoning and a CONDITIONAL USE for an offsite services business with a Variation of the subject property to allow for a reduced street setback of thirteen (13) feet instead of the minimum thirty (30) feet required subject to the following conditions:**

- 1. The Conditional Use shall expire ten (10) years from the date of approval by the McHenry County Board.**

2. ***The Conditional Use shall substantially conform to the Site Plan stamped Received October 9, 2024, by the Zoning Division.***
3. ***Within four (4) months of approval by the McHenry County Board, apply for an Access Permit from the McHenry County Division of Transportation.***
4. ***Within six (6) months of approval by the McHenry County Board, provide the McHenry County Division of Transportation with a Plat of Dedication for dedication along Dunham Road.***
5. ***Within four (4) months of approval by the McHenry County Board, apply for building permits to bring buildings into compliance with the applicable building codes.***
6. ***Within one (1) year of approval by the McHenry County Board, establish a vegetative visual barrier along the entire Dunham Road frontage (north of the new Right-of-Way line) and along Busse Road at least one hundred seventy-five (175) north from the new Dunham Road Right-of-Way. The vegetative shall be at least four (4) feet in height at the time of planting, with the ability of reaching at least six (6) feet in height within three (3) growing seasons.***
7. ***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 \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
 Chairperson, McHenry County Board  
 McHenry County, Illinois

ATTEST:

\_\_\_\_\_  
 County Clerk

NUMBER VOTING AYE: \_\_\_\_\_

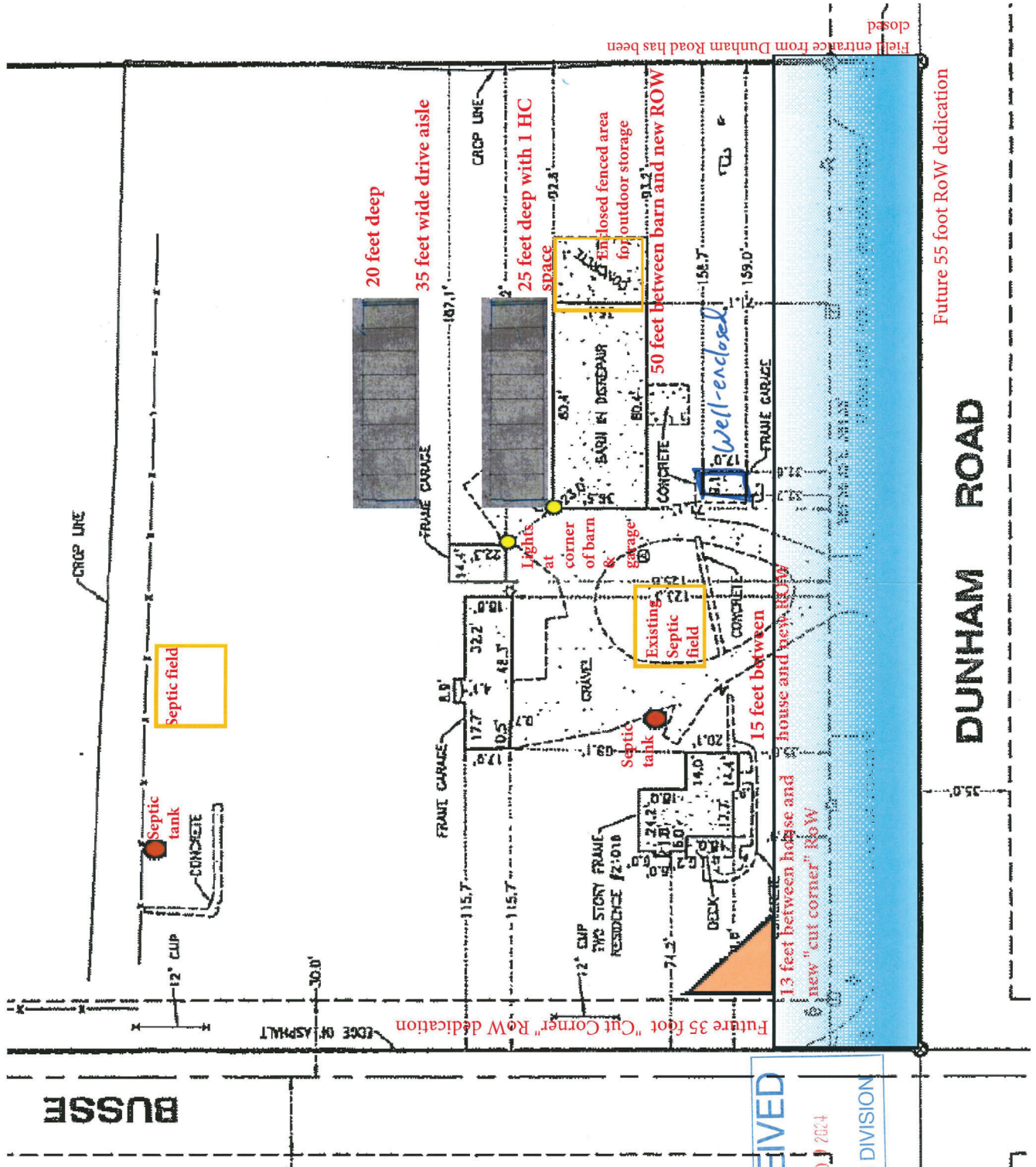
NUMBER VOTING NAY: \_\_\_\_\_

NUMBER ABSTAINING: \_\_\_\_\_

NUMBER ABSENT: \_\_\_\_\_

ATTACHMENT: OFFICIAL SITE PLAN

OFFICIAL SITE PLAN



BUSSE

EDGE OF ASPHALT

Future 35 foot "Cut Corner" RoW dedication

RECEIVED

OCT 07 2014

ZONING DIVISION

DUNHAM ROAD

Future 55 foot RoW dedication

Field entrance from Dunham Road has been closed

**MCHENRY COUNTY**  
**ZONING BOARD OF APPEALS**  
**MINUTES ● January 9, 2025**

---

Zoning Hearing

County Board Conference Room  
667 Ware Rd, Woodstock, IL 60098

1:30 PM

---

**ZONING BOARD OF APPEALS REPORT TO THE MCHENRY COUNTY BOARD - 2024-021**

- 1. APPLICANT:** Salvador Olivio
  
- 2. REQUEST:** A-2 Agriculture District to B-1 Neighborhood Business District with Conditional Use Permit for Offsite Services Business and a variance to reduce the setback of the house from thirty (30) feet to thirteen (13) feet.
  
- 3. LOCATION AND SIZE OF PROPERTY IN QUESTION:** The five (5) acre parcel is at the northeast corner of Dunham Road and Busse Road, in Dunham Twp. 21018 Dunham Road, Marengo. PIN 06-25-300-010
  
- 4. DATE AND TIME OF HEARING AND VOTING MEETING:** January 9, 2025, 1:30 PM
  
- 5. LOCATION OF HEARING AND VOTING MEETING:** County Board Conference Room, 667 Ware Road, Woodstock, Illinois
  
- 6. PRESENT AT HEARING:**
  - A. ZBA Members: Linnea Kooistra – Chair, Vicki Gartner – Vice Chair, Charles Eldredge, Robert Kosin, Kurt Schnable, Jessica Beverly, Mary Donner
  
  - B. Witness: Salvador Olivio, Salvador Olivio, Jr., Rosendo Herrera
  
  - D. Public: Anna Kurtzman – County Staff, Kit GearhartSchinske – County Staff, Nancy Shevel, Keith Shevel, Mary Young, Bridu Young, Melinda Shafer, Lisa Cohen, Sue Kirkhan, Steve Kirkhan, Joann Bergstrand, Dan Zerby, Karen Leparski, John Leparski, Kathy Porep, Roger Porep, James Shafer, Maclovio Herrera, Patricia Kennedy, Linda Rudnik, Allan Shevel, Thomas Hibsch
  
- 7. ITEMS OF EVIDENCE:** None

**8. SUMMARY OF TESTIMONY AT HEARING:** Chair Kooistra opened the hearing. The board members introduced themselves. Ms. Kooistra introduced the application and swore in the applicants and Staff.

Mr. Herrera stated that he is using the property owned by Mr. Olivio as a warehouse and parking lot for his business. He stated that he has an agreement with Mr. Olivio to purchase the property if the zoning request is granted.

Ms. Kooistra asked Mr. Herrera the approval standards questions for conditional use. Mr. Herrera answered the questions. Ms. Kooistra asked Mr. Olivio if he would like to submit his written answers to the approval standards for map amendment and for conditional use to be submitted as testimony. He stated that he would.

Mr. Schnable asked if the applicant had any communication with anyone from Dunham Township. Mr. Herrera stated that he had not.

Mr. Eldredge asked Mr. Herrera if his agreement with Mr. Olivio to purchase the property if the zoning request is granted is written or verbal. Mr. Herrera stated that the agreement is verbal. Mr. Olivio stated that they do have a written contract. Mr. Herrera retracted his statement and stated that the contract was written.

Ms. Kooistra asked Mr. Herrera if he knew what a land use plan is. Mr. Herrera stated that he did not. Ms. Kooistra asked Mr. Herrera if he is familiar with laws and classifications and that there are certain uses allowed and not allowed in specific zones. Mr. Herrera stated that he was.

Mr. Zerby asked Mr. Herrera if all the trucks on the property belong to him. Mr. Herrera stated that they are not all his. Mr. Olivio stated that a truck is his and the van belongs to a person renting his house. He stated that Mr. Herrera is not renting the property. He stated that Mr. Herrera is using the property and will buy it if the zoning application is granted.

Mr. Allan Shevel asked what Mr. Herrera would do with the property after his business grows and he relocates as he stated. Mr. Herrera stated that they would maintain it as a residence.

Staff gave their report. Staff stated that the application is for a map amendment from the A-2 Agriculture zone to a B-1 Neighborhood Business, and a conditional use permit for an offsite service business, with a variation. The request for variation would be a result of the McHenry County's Division of Transportation requirement that a change in use along a county road necessitates that right of way be dedicated to the county. As Dunham is a county road this provision would need to be followed. The required land dedication would bring the new street property line too close to the house to meet today's B-1 setback standards. Staff stated that the site plan includes the house, the two (2) parking areas that are north of the barn, the warehouse area, current septic and well locations and where they could be replaced in the future. The storage area to the east of the barn, has since been fenced in.

Staff addressed Mr. Herrera's comment about using the property as a residence after the business is no longer on site. Staff stated that if the zoning request to B-1 were granted, a residence would only be permitted above or behind a commercial business in the house or building.

Staff stated that the property is zoned "A-2" Agricultural. The surrounding properties are zoned "A-1" Agricultural. The land use of the parcel in question is single-family residential. The land use of the surrounding property is agricultural with some residential in the area. The future land use designation is agricultural. Staff stated that there is a very small portion at the northern end of the property that is designated as an environmentally sensitive area. The proposed use is not within that area.

Ms. Kooistra opened the hearing to public comment. Ms. Kennedy, as a representative of Dunham Township read the townships letter into the record.

Mr. Hibsich stated that he opposes the request for map amendment because once the land is zoned commercial, it is difficult to change the zoning back.

Mr. Zerby stated that the business use does not belong on Dunham Road. He stated that there were seventy-three (73) signatures on a petition to oppose the application (which had been given to the ZBA at the table prior to opening the meeting). He stated that he hoped the board followed the 2030 plan.

Chair Kooistra closed the testimony portion of the hearing.

**9. SOIL AND WATER CONSERVATION DISTRICT REPORT:**

For further information refer to report number: L24-032-4588.

**10. ILLINOIS DEPARTMENT OF NATURAL RESOURCES:**

The consultation was not required for this application.

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

Chair Kooistra opened the voting meeting immediately following the hearing.

Mr. Eldredge motioned acceptance of the petition for map amendment. Ms. Gartner seconded the motion. Mr. Eldredge stated that the five-acre parcel was carved out as a typical A-2 some time ago. It is on Dunham Road at the corner of Busse Road. Busse Road is a local road. Dunham is a local collector, which is a county road in that area. He stated that the comprehensive plan depicts the area as agricultural. The surrounding zoning is agricultural. There are no businesses anywhere close. He stated that the requested use is fairly intense for a neighborhood business. The applicant has not met the standards for compatibility with nearby properties. The applicant has not presented sufficient evidence that the public health and safety are promoted by any change to the existing zoning. He stated that the property is suitable for its present zoning and is not suitable for the requested zoning. He stated that there is a community need for his business, but not at the parcel in question.

Mr. Kosin stated that the map amendment standards have not been met.

Ms. Kooistra stated that the request for map amendment conflicts with the 2030 land use plan. She stated that there are several land use and environmental policies that indicate that changing this classification to B-1 is inappropriate at this location. Motion failed (0-7).

Mr. Eldredge motioned to recommend denial of the petition for map amendment. Ms. Gartner seconded the motion. Motion carried (7-0).

Ms. Kooistra read the conditions into the record. Mr. Eldredge motioned to accept the conditions as presented. Ms. Gartner seconded the motion. Motion carried (7-0).

Mr. Eldredge motioned to accept the conditional use subject to the conditions and the variation. Ms. Donner seconded the motion. He stated that the conditional use on the subject parcel is inappropriate for the same reasons that the map amendment is inappropriate on the subject parcel. He stated that because of the board's previous action, the conditional use is moot. Motion failed (7-0).

Mr. Eldredge motioned recommend denial of the conditional use subject and variation. Ms. Gartner seconded the motion. Motion carried (7-0).

**12. FACTS THAT SUPPORT RECOMMENDING APPROVAL OF THE REQUEST: None.**

**13. FACTS THAT SUPPORT RECOMMENDING DENIAL OF THE REQUEST:**

- The subject property is currently zoned A-2 Agriculture.
- The surrounding land use is agriculture with some residential use in the area.
- The future land use designation is agricultural.
- The approval standards for map amendment, conditional use and variation have not been met.

**14. MOTIONS:**

Mr. Eldredge motioned recommendation of approval of the petition for map amendment. Ms. Gartner seconded the motion. Motion failed (0-7).

Mr. Eldredge motioned to recommendation of denial of the petition for map amendment. Ms. Gartner seconded the motion. Motion carried (7-0).

Mr. Eldredge motioned recommendation of approval of the conditions as presented. Ms. Gartner seconded the motion. Motion carried (7-0).

Mr. Eldredge motioned recommendation of denial of the conditional use subject and variation. Ms. Gartner seconded the motion. Motion carried (7-0).

**15. VOTE:**

7 – AYES; 0 – NAYS; 0 - ABSTAIN



**GOES TO COUNTY BOARD WITH ZBA RECOMMENDATION FOR Denial of the Map Amendment and Conditional Use with Variation subject to the conditions:**

1. The Conditional Use shall expire ten (10) years from the date of approval by the McHenry County Board.
2. The Conditional Use shall substantially conform to the Site Plan stamped Received October 9, 2024, by the Zoning Division.
3. Within four (4) months of approval by the McHenry County Board, apply for an Access Permit from the McHenry County Division of Transportation.
4. Within six (6) months of approval by the McHenry County Board, provide the McHenry County Division of Transportation with a Plat of Dedication for dedication along Dunham Road.
5. Within four (4) months of approval by the McHenry County Board, apply for building permits to bring buildings into compliance with the applicable building codes.
6. Within one (1) year of approval by the McHenry County Board, establish a vegetative visual barrier along the entire Dunham Road frontage (north of the new Right-of-Way line) and along Busse Road at least one hundred seventy-five (175) north from the new Dunham Road Right-of-Way. The vegetative shall be at least four (4) feet in height at the time of planting, with the ability of reaching at least six (6) feet in height within three (3) growing seasons.
7. All other federal, state, and local laws shall be met.

Full Comments and complete application submittal for the above agenda items are available on the McHenry County Meeting Portal.

it's nothing personal. I've been told this too before. It's nothing personal. It's just the zoning. We like your business, what you're doing. It's admirable, honest work. Unfortunately, we just don't want to see a business, because once that starts, okay, not jumping to conclusions, but it could open up a truck stop on 23 and Loves or one of these other quick stop would go in there. So again, I'm sorry, but this is the way I feel. Thank you.

Rosendo Herrera:

Thank you.

Linnea Kooistra:

Anyone else like to make a comment?

Dan Zerby:

Guess I'll go again. Dan Zerby, 21403 Dunham Road, and I agree with him. I admire your business. You did a really great job going from one truck to however many you claim to have, but it doesn't belong on Dunham Road where it is zoned agriculture. There's beautiful homes on Dunham Road. There's a lot on Busse. 73 signatures on the petition in front of you have requested this to be voted no. And we hope you will follow your 2030 plan and act accordingly. Thank you.

Linnea Kooistra:

Is there anyone else? Okay, at this time, do you have a closing statement? Would you like to say anything before we close?

Rosendo Herrera:

Sure, sure. [inaudible 01:02:21]. Well, I would like to thank everybody here for the opportunity, especially Anna. She's been really helpful all these months. It's been a long time. And honestly, to the public here, I understand their concerns. I honestly do. And we would love to run our business out of there, but if we can't, well, we have to find another place. Simple as that. Thank you guys for the opportunity, and that's all. Thank you.

Linnea Kooistra:

Okay, so we'll close the hearing portion for this petition, and we'll move on to the voting portion for this meeting. Again, this is application 2024-021. The request is for... We'll vote separately. The first thing we'll vote on is the request for an A-2 Agricultural District to a B-1 Neighborhood Business District, but then also beyond that there is also a conditional use request for an offsite services business and a variance to reduce the setback of the house from 30 feet to 13 feet. It's a five-acre parcel at the northeast corner of Dunham Road and Busse Road and Dunham Township. So at this time I-

Charles Eldredge:

Madam Chairwoman, I move for the purposes of discussion, acceptance of the petition.

Vicki Gartner:

I'll second.

Linnea Kooistra:

It's been moved by Mr. Eldredge and seconded by Ms. Gartner for discussion to approve the petition.  
Discussion Mr. Eldredge?

Charles Eldredge:

Yes, this is a five-acre parcel that was carved out as a fairly typical A-2 some time ago. It is on Dunham Road at the corner of Busse Road. Busse Road is a local road. Dunham is a local collector, which is a county road in that area. The comprehensive plan and the updates of the last two or three times show this area as agricultural. The zoning is agricultural completely around it. There is no business anywhere close. This is a fairly intense use for neighborhood business in any case. I appreciated the petitioner's testimony, but I found most of it irrelevant because I think this is a classic case of spot zoning. I think that it is entirely inappropriate in the location.

If it were a corner on a state road and a major collector of some sort, I'd probably support it. But this is not. It is in a very rural area that is likely, without prodding from us to remain rural for a very long time. And that, I believe, is the policy of the county to permit agricultural areas that are not in the path of development to remain agricultural, at least for the next couple of generations. I do not believe that he has met the standards for compatibility with nearby properties. I don't believe that he's given significant evidence that the public health and safety are promoted by any change to the existing zoning. I think the property is entirely suitable for its present zoning and is not particularly suitable for the zoning change he wants to make. Mrs. Kennedy's statement that there are... I think she said 60-odd alternative uses that could be on this property of right should we grant this zoning should give us pause, in any case. There is a community need for his business, but I think not at this location, and for these reasons, I shall oppose the petition.

Linnea Kooistra:

Mrs. Gartner.

Vicki Gartner:

I agree with Mr. Eldredge, I do appreciate your testimony, and I sincerely hope that you find another place in our county that is suitable for you. You don't have to go all the way up to Janesville. But for the same reasons as Mr. Eldredge, I'm afraid I can't support this.

Linnea Kooistra:

Mr. Kosin.

Robert Kosin:

Thank you, Madam Chairman. We are guided by having a finding articulated on the approval standards of a map amendment, which is the underlying foundation that brought this petition before us. Specifically, there is sections D and E, of which no matter what we examine, the applicant has not been able to demonstrate, in my opinion, that there would be a hardship posed on him greater than the hardship on the public nor is there any reason that this property is more suitable for the application than any other property. And for at least those two reasons, I will not be voting in favor of this application.

Linnea Kooistra:

Mr. Schnable.

Kurt Schnable:

I agree completely with everything that's been set up to this point. I will not be supporting the petition either.

Linnea Kooistra:

Ms. Beverly.

Jessica Beverly:

I also agree with everything that's been said. While there's no one factor in the approval standard for map amendments, it is a balancing test. And this petition simply fails the balancing test.

Linnea Kooistra:

Ms. Donner.

Mary Donner:

Our guidelines for 2030 and upcoming for 2050 all call for compact and contiguous investment in properties closer to community, an established community, because of all the issues we have with numerous things. So, that creates its own problem. What everybody here has said is factual, and I will be voting the same way. But if you did get this at B-1, your house would be 13 feet from the street. And I don't think that when you retire, that's what you want to see, because that's what happens when it's B-1. And you already said you don't want to do that. You want to be able to live there and retire. So, everything else here has been exactly what I said at the very beginning, and I wish we could do something.

Rosendo Herrera:

Me too.

Linnea Kooistra:

And I agree with my colleagues. I also agree with the staff assessment which says that this conflicts with the 2030 land use map, which designates this area with agricultural uses. And there are several land use and environmental policies which indicate that changing this classification to B-1 is inappropriate at this location. So for those reasons, I'm also voting against this petition. So, I will call for the vote. So, a vote if you have to vote nay, then if you don't want this to go through. So, I'll call for the vote. Mr. Eldredge?

Charles Eldredge:

No.

Linnea Kooistra:

Ms. Gartner?

Vicki Gartner:

No.

Linnea Kooistra:

Mr. Kosin?

Robert Kosin:

No.

Linnea Kooistra:

Mr. Schnable?

Kurt Schnable:

Nay.

Linnea Kooistra:

Ms. Beverly?

Jessica Beverly:

No.

Linnea Kooistra:

Ms. Donner?

Mary Donner:

Nay.

Linnea Kooistra:

And I'll vote nay. So, that motion...

Charles Eldredge:

Fails.

Linnea Kooistra:

... fails zero to seven.

Charles Eldredge:

Madam Chairwoman, I move a denial of the petition.

Linnea Kooistra:

Is there a second?

Vicki Gartner:

I'll second.

Linnea Kooistra:

We move by Mr. Eldredge, seconded by Ms. Gartner, to deny this petition. Is there any discussion? And I'll call for a vote. So, to deny it, you'll be voting aye. Mr. Eldredge?

Charles Eldredge:

Yes.

Linnea Kooistra:

Ms. Gartner?

Vicki Gartner:

Aye.

Linnea Kooistra:

Mr. Kosin?

Robert Kosin:

Yes.

Linnea Kooistra:

Mr. Schnable?

Kurt Schnable:

Aye.

Linnea Kooistra:

Ms. Beverly?

Jessica Beverly:

Yes.

Linnea Kooistra:

Ms. Donner?

Mary Donner:

Aye.

Linnea Kooistra:

And I'll vote aye. So, this is denied seven to zero. So, go to the county board with a vote of seven to zero denying this petition. So at this time, the meeting is closed.

Anna Kurtzman:

You still have the request for the conditional use and for the variance. You still need to take actions on those.

Linnea Kooistra:

Oh, we still need to vote on those.

Anna Kurtzman:

Because you are not the final say.

Linnea Kooistra:

Oh, that's [inaudible 01:12:05].

Anna Kurtzman:

You are advising the county board.

Linnea Kooistra:

Okay. So, let's go through the...

Charles Eldredge:

[inaudible 01:12:12]. Yes.

Linnea Kooistra:

So now, we'll go through the conditions for conditional use. Number one, the conditional use shall expire 10 years in the date of approval by the McHenry County Board. Number two, the conditional use shall substantially conform to the site plan, stamped, received October 9th, 2024 by the zoning division. Number three, within four months of approval by the McHenry County Board, apply for an access permit from the McHenry County Division of Transportation. Number four, within six months of approval by the McHenry County Board, provide the McHenry County Division of Transportation with [inaudible 01:12:51] of dedication for dedication along Dunham Road. Number five, within four months of approval by the McHenry County Board, apply for building permits to bring buildings into compliance with the applicable building codes.

Number six, within one year of approval by the McHenry County Board, establish a vegetative visual barrier along the entire Dunham Road frontage, north of the new right-of-way line, and along Busse Road, at least 175 feet north of the new Dunham Road right-of-way. The vegetative shall be at least four feet in height at the time of planting, with the ability of reaching at least six feet in height within three growing seasons. Number seven, all other federal, state and local laws shall be met. Are there any other conditions?

Charles Eldredge:

Madam Chairwoman, I move acceptance of the conditions as presented.

Linnea Kooistra:

For a second?

Vicki Gartner:

I'll second.

Linnea Kooistra:

It's been moved by Mr. Eldredge, seconded by Ms. Gartner, to accept these conditions. No discussion. I'll call for the vote. Mr. Eldredge?

Charles Eldredge:

Yes.

Linnea Kooistra:

Ms. Gartner?

Vicki Gartner:

Yes.

Linnea Kooistra:

Mr. Kosin?

Robert Kosin:

Yes.

Linnea Kooistra:

Mr. Schnable.

Kurt Schnable:

Yes.

Linnea Kooistra:

Ms. Beverly?

Jessica Beverly:

Yes.

Linnea Kooistra:

Ms. Donner?

Mary Donner:

Yes.

Linnea Kooistra:

And I'll vote yes. So, those conditions are approved seven to zero. So then, we have to vote on the conditional use with the variations. There are two variations to reduce the setback of the house from 30 feet to 13 feet. Oh, that's because of two different requests by the county.

Charles Eldredge:



Yes.

Anna Kurtzman:

Correct.

Linnea Kooistra:

Okay. So, it's just really one variation, an additional use permit for an offsite services business with the variation to reduce the setback of the house from 30 feet to 13 feet. So, at this time

Charles Eldredge:

I move, for the purposes of the discussion, acceptance of the conditional use subject to the conditions and variation.

Mary Donner

Second.

Linnea Kooistra

It has been moved by Mr. Eldredge. Second by Ms. Donner to approve the conditional use. Discussion Mr. Eldredge.

Charles Eldredge

Yes well for all the reasons that I presented with regard to the zoning and to the fact that this is largely moot as a result of our previous action, I shall vote no.

Linnea Kooistra:

Ms. Gartner?

Vicki Gartner:

I agree with Mr. Eldredge.

Linnea Kooistra:

Mr. Kosin?

Robert Kosin:

I agree with Mr. Eldredge.

Linnea Kooistra:

Mr. Schnable?

Kurt Schnable:

It sounds like the right thing to do to me.

Linnea Kooistra:

Ms. Beverly?

Jessica Beverly:

No comments.

Linnea Kooistra:

Ms. Donner?

Mary Donner:

The same, please.

Linnea Kooistra:

And I agree with the comments of my colleagues. So I will call for the vote. Again if you are voting...

Charles Eldredge:

No.

Linnea Kooistra:

No, yeah, you're going to vote no if you don't want this to be passed. Mr. Eldredge?

Charles Eldredge:

No.

Linnea Kooistra:

Ms. Gartner?

Vicki Gartner:

No.

Linnea Kooistra:

Mr. Kosin?

Robert Kosin:

No.

Linnea Kooistra:

Mr. Schnable?

Kurt Schnable:

No.

Linnea Kooistra:

Ms. Beverly?

Jessica Beverly:

No.

Linnea Kooistra:

Ms. Donner?

Mary Donner:

Nay.

Linnea Kooistra:

And I'll vote no. So, this is zero to seven for the approval.

Charles Eldredge:

Madam Chairman, I move that we deny the conditional use subject to the variations and [inaudible 01:16:12].

Linnea Kooistra:

So second?

Vicki Gartner:

Second, Your Honor.

Linnea Kooistra:

Okay, I'll call for the vote. Mr. Eldredge?

Charles Eldredge:

Yes.

Linnea Kooistra:

Ms. Gartner?

Vicki Gartner:

Yes.

Linnea Kooistra:

Mr. Kosin?

Robert Kosin:

Yes.

Linnea Kooistra:

Mr. Schnable.

Kurt Schnable:

Yes.

Linnea Kooistra:

Ms. Beverly?

Jessica Beverly:

Yes.

Linnea Kooistra:

Ms. Donner?

Mary Donner:

Aye.

Linnea Kooistra:

And I'll vote yes. So, this is also denied seven to zero. Okay.

Robert Kosin:

That gets [inaudible 01:16:28].

Linnea Kooistra:

Thank you, Anna, for clarifying that. It's little confusing. So, I think we have it all now, right?

Anna Kurtzman:

I think we do, yes.

Linnea Kooistra:

Okay. Very good. All thank you all for-

Rosendo Herrera:

Thank you.

Linnea Kooistra:

This time, the hearing is actually closed.

# Staff Report for the McHenry County Zoning Board of Appeals

**Application:** #2024-021

**PIN:** 06-25-300-010

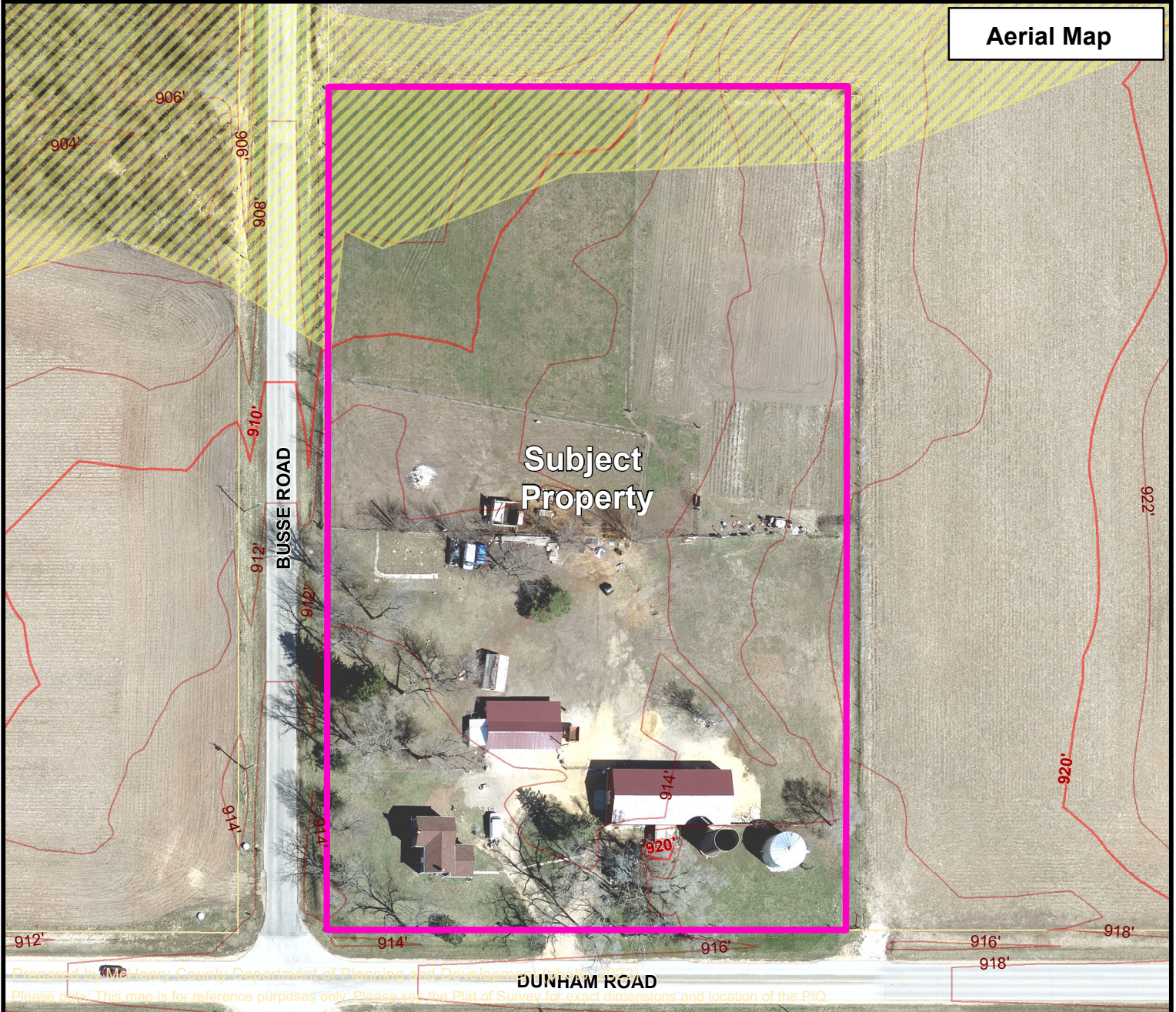
**Address:** 21018 Dunham Road, Marengo

**Request:** A-2 Agriculture District to B-1 Neighborhood Business District with Conditional Use Permit for Offsite Services Business and a variance to reduce the setback of the house from thirty (30) feet to thirteen (13) feet.

**Hearing:** January 9, 2025

**Applicant:** Salvador Olivio

**Location:** The five (5) acre parcel is at the northeast corner of Dunham Road and Busse Road, in Dunham Twp.



Prepared by McHenry County Department of Planning and Development (Map No. 2024-021)  
 Please note: This map is for reference purposes only. Please see the Plat of Survey for exact dimensions and location of the PIO.

**Elevation**

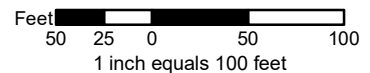
(feet above sea level)  
 — 10-foot contours  
 — 2-foot contours

**ADID Wetland Map 2005**

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

**FEMA Flood Hazard Areas**

- 0.2 % Annual Chance of Flood
- 1% Annual Chance of Flood
- Floodway



# 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.*

## **BACKGROUND & REQUEST SUMMARY**

The applicant is requesting to reclassify the five point three (5.3) acre property at the northeast corner of Dunham Road and Busse Road from its current classification of A-2 Agriculture District to B-1 Neighborhood Business District. In conjunction with this request, the applicant is also requesting a Conditional Use Permit to allow for an Offsite Services Business and a variance to reduce the street setback from the required thirty (30) feet to thirteen (13) feet.

In adherence to County policy, McDoT has indicated that a dedication of fifty-five (55) feet of Right-of-Way from the centerline of Dunham Road would be required if the zoning and/or use of the property is changed. A thirty-five (35) foot by thirty-five (35) foot right-of-way triangle would also need to be dedicated at the intersection of Dunham Road and Busse Road. The variance would be necessary if these deductions occur as the new property line would be thirteen (13) feet from the existing residence.

The plat of survey indicates that there is a single-family residence, four (4) detached accessory buildings, and a gravel driveway on the property. During the review of the conditional use permit process the applicant has indicated that a portion of the residence would be converted into office space for the offsite services business. The balance of the building would continue to be used as a residence(s).

The property was reclassified in 2019 from A-1 Agriculture District to its present classification of A-2 Agriculture District.

A total of five (5) violations have been filed against this property by the Planning and Development Department since 2020. Three (3) are for work conducted without a building permit – all these violations have been closed. One (1) was for hosting an event without a reception facility. As this ended up being a one-time event, the file was closed. A violation for operating an offsite service business without proper zoning was noted in January 2024. This case is on-going while the applicant pursues this rezoning/conditional use permit request.

## **MCHENRY COUNTY UNIFIED DEVELOPMENT ORDINANCE**

- The Applicant must meet the Approval Standards for Map Amendment, listed in §16.20.010.E.1 of the *McHenry County Unified Development Ordinance*.
- The Applicant must meet the Approval Standards for a Conditional Use Permit, listed in County Code Section 16.20.040.E of the McHenry County Unified Development Ordinance (UDO).
- The Applicant must meet the Approval Standards for a Zoning Variance, listed in County Code Section 16.20.020 F of the McHenry County Unified Development Ordinance (UDO) for each of the requested variances.

## **STAFF ANALYSIS**

### Current Land Use & Zoning

The subject property is surrounded on all four (4) sides by A-1 Agriculture District zoning with all properties being used agriculturally.

### 2030 Comprehensive Plan Future Land Use Map

The 2030 Comprehensive Plan Future Land Use Map designates this property, and the properties surrounding it, as Agriculture.

### 2030 Comprehensive Plan & 2030 and Beyond Analysis

The proposed use of the property is inconsistent with the 2030 Comprehensive Plan and 2030 and Beyond due to the facts that there are impacts to the agricultural resources and the property is not within proximity to any municipality or infrastructure. The proposed use is consistent with the economic policies of the plans. *(See comments below)*

Big Idea #1 Let's make our communities healthy, active, and green

*"We can make it happen by promoting development that is compact, contiguous to, or located within municipalities in order to preserve rural landscapes while providing greater mobility choice for all residents."* (p. 12)

- The closest municipality to the subject property is the City of Harvard – which is almost four (4) miles away.

Big Idea #2 Let's build on our strengths

*"We can make it happen by preserving our open space and agricultural landscapes, which provide recreational opportunities, including ecotourism, and sustain our rural lifestyle and agricultural industry."* (p. 14)

- Reclassification to a business classification, with all the potential commercial type uses afforded by that designation, is not in keeping with this Big Idea.

Big Idea #3 Let's grow smarter

*"We can make it happen by promoting development that is compact, contiguous to, or located within municipalities, and away from areas designated for agriculture and lacking infrastructure and services."* (p. 16)

- As noted above, the subject property is almost four (4) miles from the nearest municipality. The subject property and surrounding areas have been used for agricultural purposes.

Big Idea #4 Let's expand our economy

*"We can make it happen by facilitating new business and the expansion of existing businesses."* (p. 21)

- The reclassification with, or without the Conditional Use Permit, could allow the establishment of a business.

Community Character & Housing

*"Promote increased density and compact contiguous development."* (p. 15)

- The uses near this intersection are primarily agricultural with some single-family residences. There is no commercial type uses near this location. Establishing a commercial node at this location at this time would be significantly premature.

Agricultural Resources

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

- The subject property and the surrounding area are used for agricultural purposes. Reclassification to a business classification in this location would be inconsistent with these uses.

Greenways, Open Space & Natural Resources

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

- The subject property is already developed. The repurposing of this property will not adversely impact environmental features of the area. Please refer to NRI L24-032-4588 for more information.

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)

- The property is not within the 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 of the subject property to a business classification could allow non-agricultural/non-residential uses to occur on the property. It is conceivable that these non-agricultural/non-residential uses could provide a slight increase in the County's overall commercial/industrial tax base.

### Infrastructure

No applicable text.

### Land Use

*"Promote increased density and compact contiguous development."* (p. 125)

- As previously noted, the subject property is not located near any municipality nor is it located near an established development.

### **STAFF ASSESSMENT**

The requested reclassification, including the proposed conditional use permit, conflicts with the McHenry County 2030 Future Land Use map, which designates this area as developing with Agricultural uses. There are several land use and environmental policies which indicate that changing the classification to B-1 Neighborhood Business District with a Conditional Use Permit for an Offsite Services Business is inappropriate at this location. Conversely, there are some economic based policies which could be used to support a reclassification to the B-1 Neighborhood Business District.

The applicant is requesting to reclassify the subject property from its current A-2 Agriculture designation to B-1 Neighborhood Business District with a request for a conditional use permit allowing an Offsite Services Business. Along with the request for reclassification with the conditional use permit, the applicant is also seeking a variance to reduce the street setback from thirty (30) feet to thirteen (13) feet.

Staff offers the following conditions for consideration:

1. The Conditional Use shall expire ten (10) years from the date of approval by the McHenry County Board.
2. The Conditional Use shall substantially conform to the Site Plan stamped Received October 9, 2024, by the Zoning Division.
3. Within four (4) months of approval by the McHenry County Board, apply for an Access Permit from the McHenry County Division of Transportation.
4. Within six (6) months of approval by the McHenry County Board, provide the McHenry County Division of Transportation with a Plat of Dedication for dedication along Dunham Road.
5. Within four (4) months of approval by the McHenry County Board, apply for building permits to bring buildings into compliance with the applicable building codes.
6. Within one (1) year of approval by the McHenry County Board, establish a vegetative visual barrier along the entire Dunham Road frontage (north of the new Right-of-Way line) and along Busse Road at least one hundred seventy-five (175) north from the new Dunham Road Right-of-Way. The vegetative shall be at least four (4) feet in height at the time of planting, with the ability of reaching at least six (6) feet in height within three (3) growing seasons.
7. All other federal, state, and local laws shall be met.



## **Section 16.20.010.E.1 of the McHenry County Unified Development Ordinance**

*Approval Standards for Zoning Amendments.* The Zoning Board of Appeals recommendation and the County Board decision shall consider the following standards. However, the Zoning Board of Appeals' recommendation and the County Board's decision on any zoning text or map amendment is not controlled by any one factor under the following standards, but rather the approval of amendments is based on a balancing of the factors under each standard.

1. *Approval Standards for Map Amendments.*

- a. The compatibility of the proposed zoning with the existing use and zoning of nearby property.
- b. The extent to which property values of the subject property are diminished by the existing zoning.
- c. The extent to which the public health, safety, and welfare of the public are promoted by the existing zoning.
- d. The relative gain to the public, as compared to the hardship imposed upon the applicant, if the proposed zoning is denied.
- e. The suitability of the property for the purposes for which it is presently zoned.
- f. The length of time the property has been vacant as zoned considered in the context of land development in the vicinity of the subject property.
- g. The community need for the proposed use.
- h. The consistency of the proposed amendment with the adopted comprehensive plan and the appropriateness of the comprehensive plan to the subject property.

### McHenry County Unified Development Ordinance Section 16.20.040.E

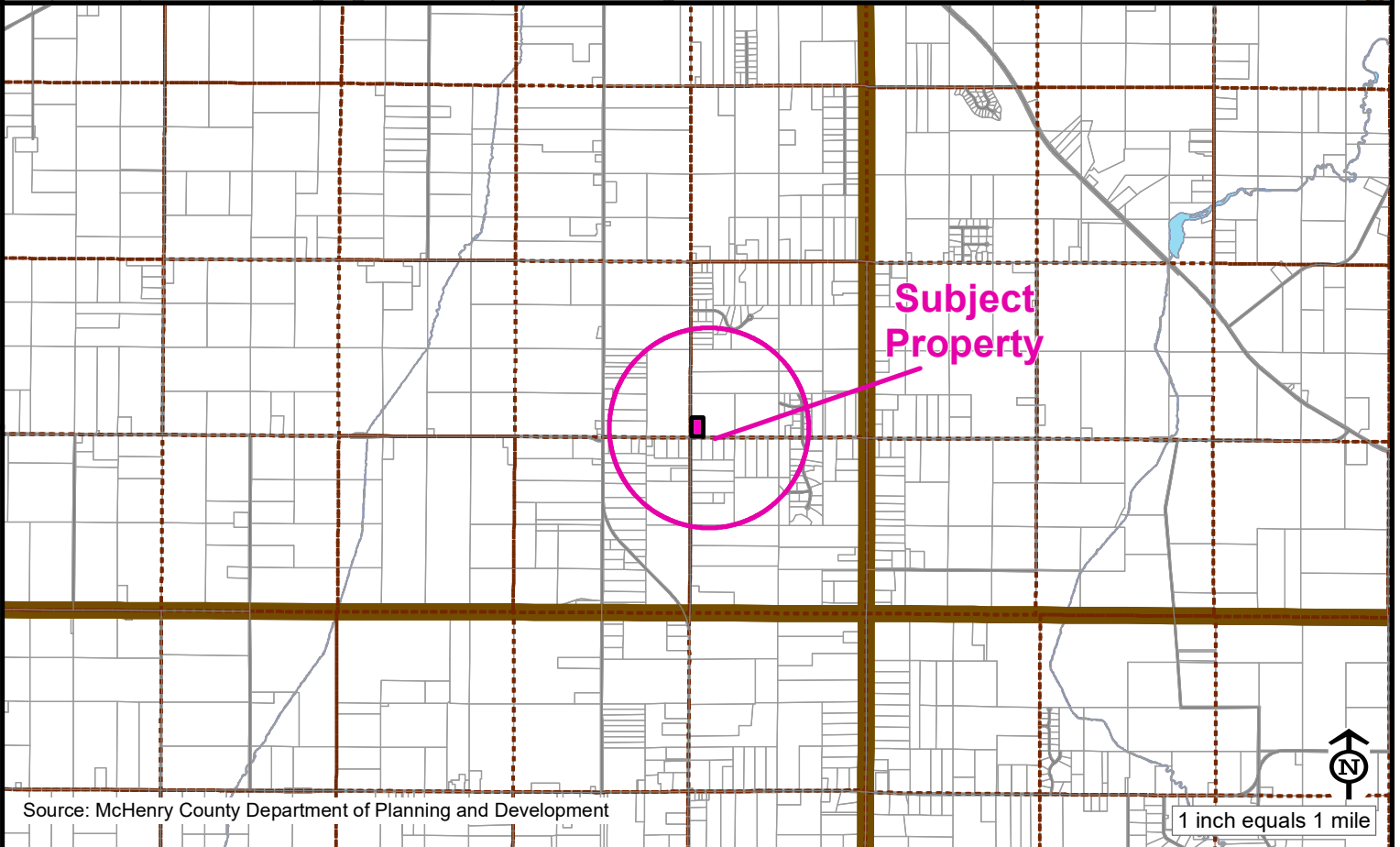
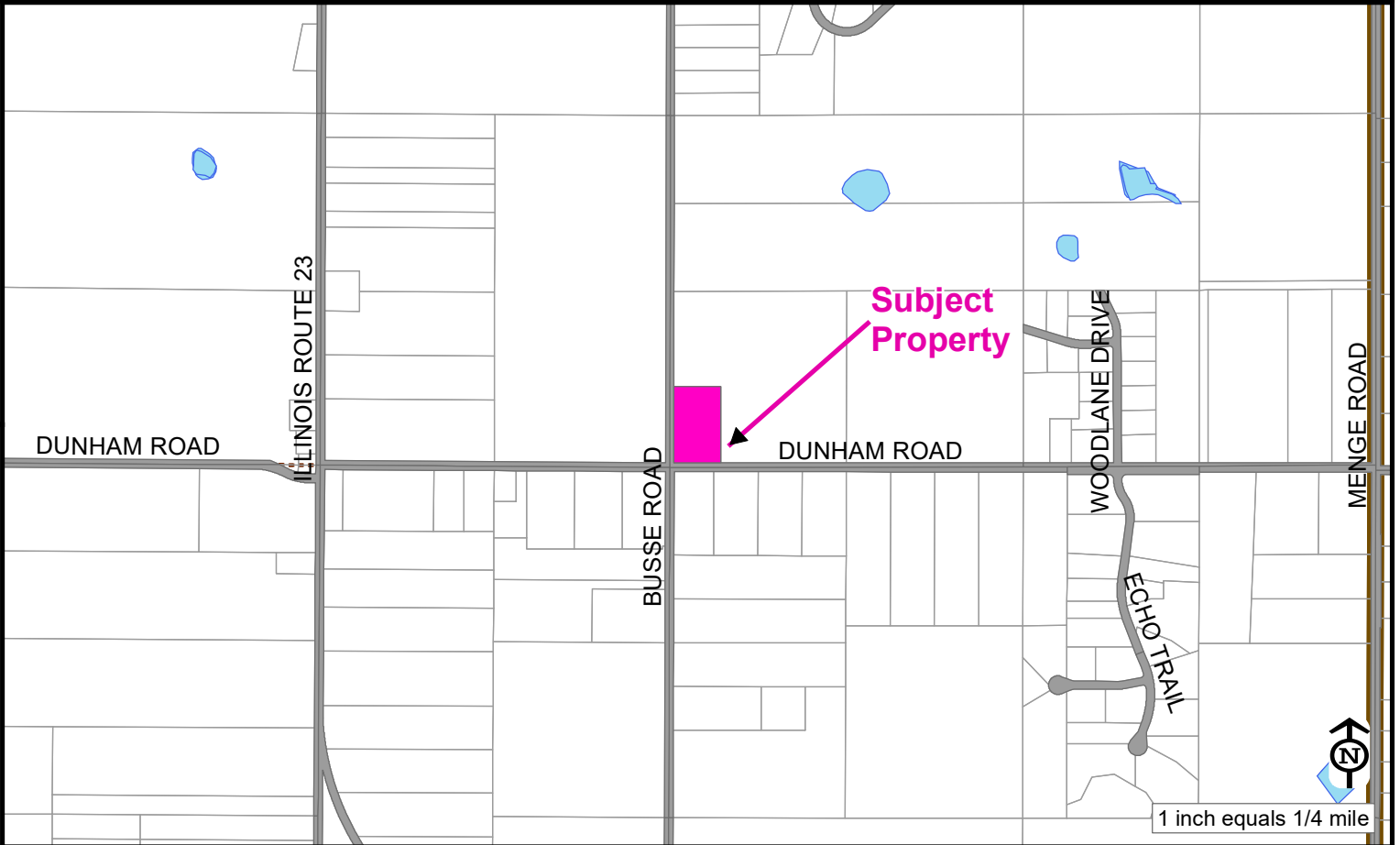
- E. *Approval Standards for Conditional Use Permits.* No conditional use permit may be granted unless the Zoning Board of Appeals and County Board makes specific written findings that the request meets each of the standards imposed by this section. These standards are as follows:
1. That the petitioner has demonstrated the ability to meet any applicable standards contained in [Chapters 16.56](#) (Use Standards) and [16.60](#) (Site Development Standards).
  2. That the site shall be so situated that the proposed use is compatible with the existing or planned future development of the area.
  3. That the establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the neighboring vicinity.
  4. That the conditional use shall not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
  5. That the conditional use shall not substantially diminish and impair property value within the neighborhood.
  6. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.
  7. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion and hazard on public streets.
  8. That the conditional use shall, in all other respects, conform to the applicable regulations of the zoning district in which it is located.
  9. That the conditional use is reasonably in the interest of the public welfare.
  10. That adequate measures will be taken to provide protection to groundwater recharge and groundwater quality.

## Approval Standards for Zoning Variations

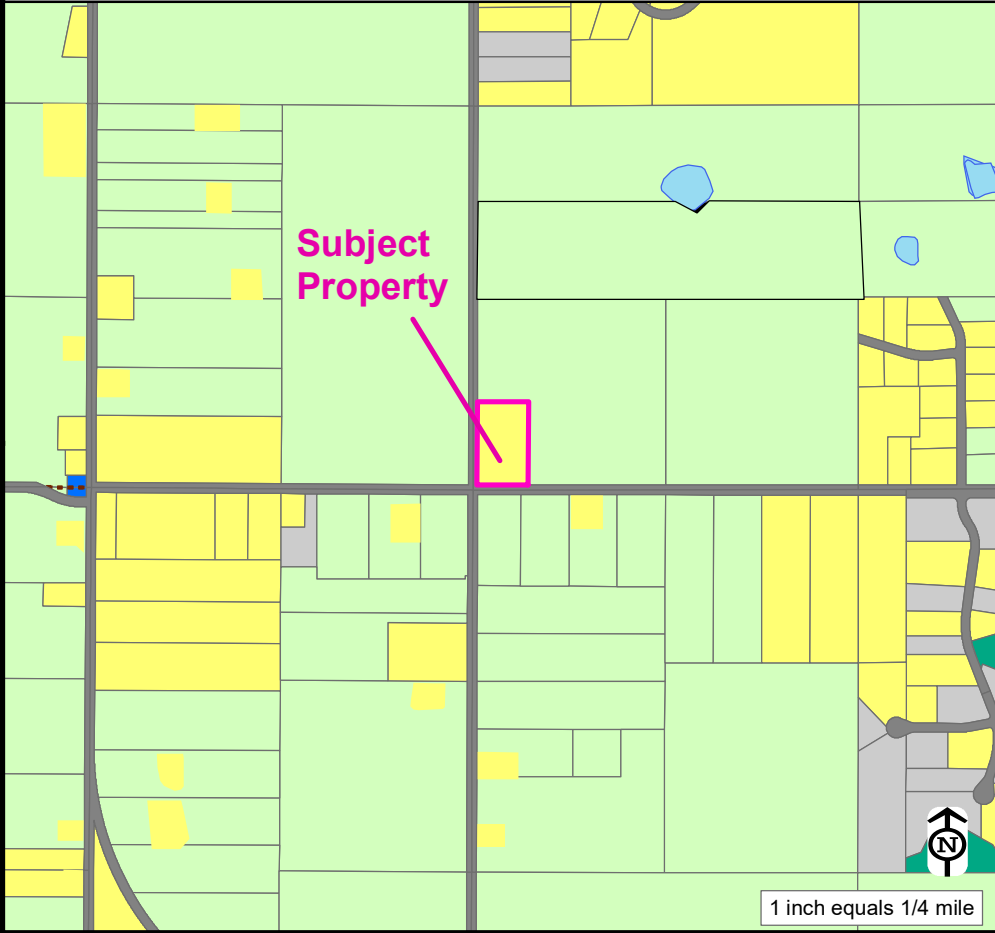
### (Section 16.20.020 F of the Unified Development Ordinance)

- F. *Approval Standards for Zoning Variations.* No zoning variation from the provisions of this Ordinance may be granted unless the Zoning Board of Appeals or Hearing Officer and County Board makes specific findings that the request meets each of the standards imposed by this section. These standards are as follows:
1. The particular surroundings, shape, or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.
  2. The conditions upon which the application for a variation are based are unique to the property for which the variation is sought and are not generally applicable to other property within the same zoning district.
  3. The purpose of the variation is not based exclusively upon a desire to increase the monetary gain realized from the property.
  4. The alleged difficulty or hardship is caused by the Ordinance and has not been created by any person presently having an interest in the property.
  5. That 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.
  6. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the adjacent neighborhood.
  7. That the granting of the variation requested will not confer on the applicant any special privilege that is denied by this Ordinance to other land or structure of the same zoning district.

Report prepared December 10, 2024 by Anna Kurtzman, Sr. Planner – McHenry County Department of Planning & Development



**Current Land Use Map**



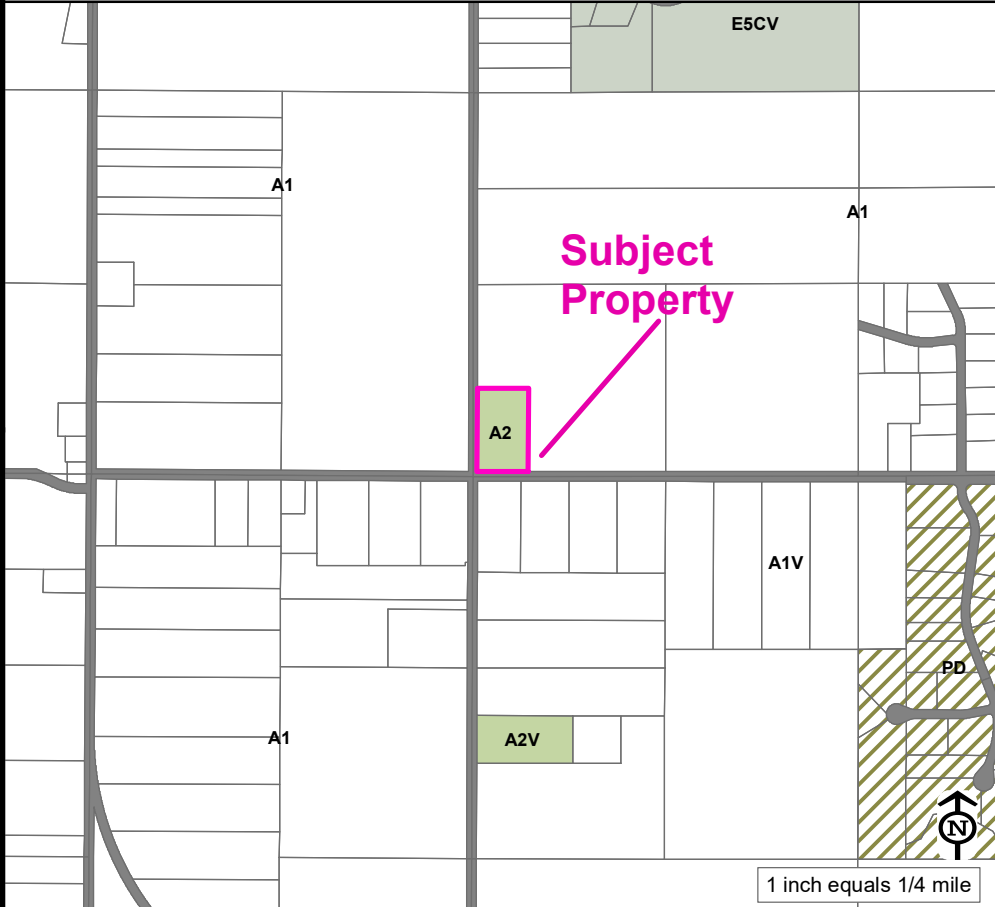
**Current Land Use**  
Single-Family Residential

**Adjacent Land Use(s)**

North: Agriculture  
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
- Under Review

**Zoning Map**



**Current Zoning**  
A-2 Agriculture

**Adjacent Zoning**

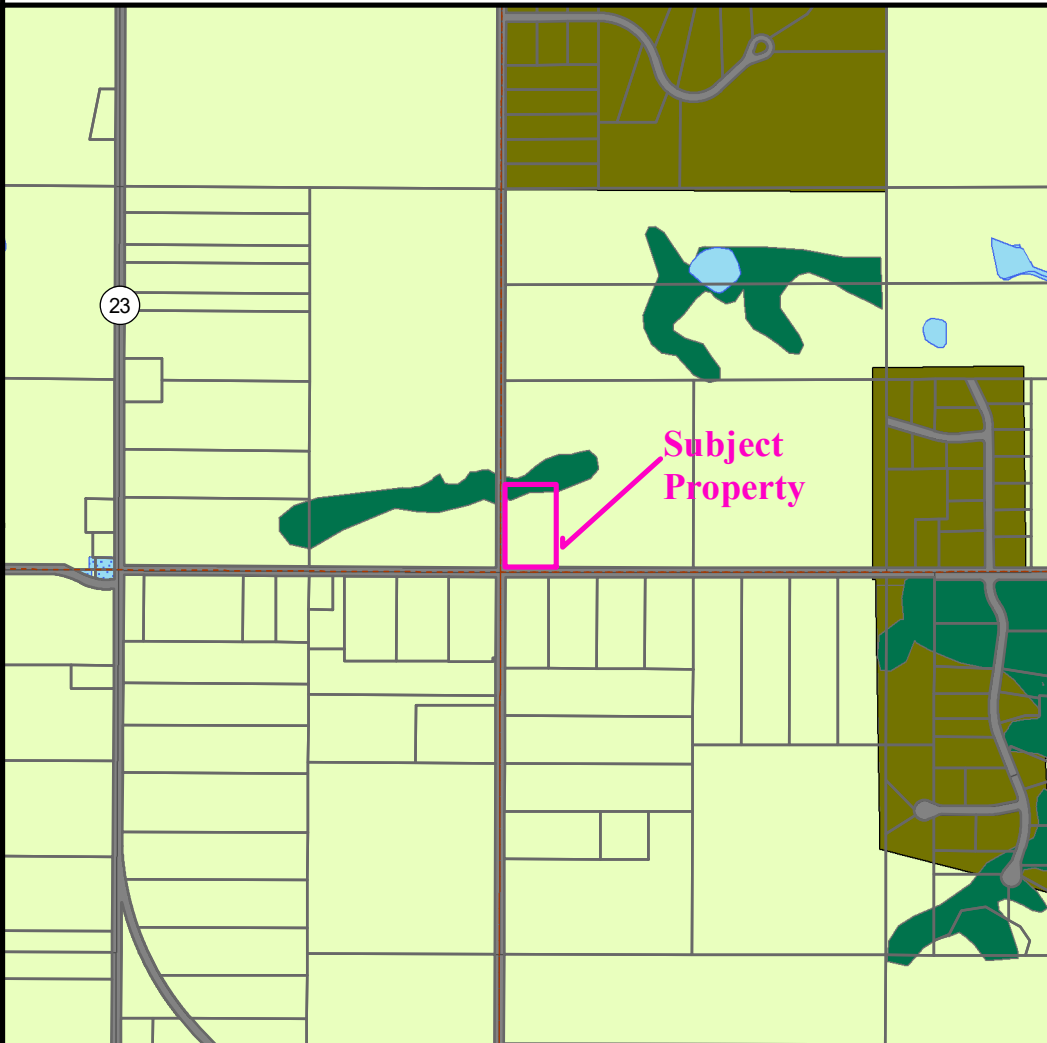
North: A-1 Agriculture  
South: A-1 Agriculture  
East: A-1 Agriculture  
West: A-1C Agriculture

- 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 Neighborhood Business
- B-3 General Business
- O Office / Research
- I-1 Light Industrial
- I-2 Heavy Industrial
- PD Planned Development
- C Conditional Use
- V Variation
- Incorporated

# McHenry County 2030 Comprehensive Plan Future Land Use Map

## Future Land Use Map Designation

*Agriculture*



- 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 = 1/4 mile



### Municipal / Township Plan Designations

Dunham Township: Agriculture

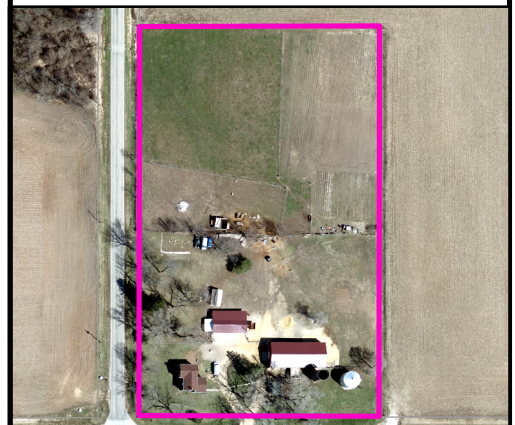
### McHenry County 2030 Comprehensive Plan — Text Analysis Land Use

**AGRICULTURAL** – represents existing agricultural acres, including cropland, pastureland, farm yards, and farmsteads, that should remain in agricultural use through the 2030 planning horizon. Development in the Agricultural District should be strictly limited to agriculture, agricultural residences, and agricultural support uses. (p. 134)

### Sensitive Aquifer Recharge Areas

The site is NOT located in a zone with elevated contamination potential.

### Sensitive Aquifer Recharge Areas (SARA)



- Sensitive Recharge Area

**McHENRY-LAKE COUNTY  
SOIL & WATER  
CONSERVATION DISTRICT**



1648 S. Eastwood Dr. Woodstock, Illinois 60098 (815) 338-0444 ext. 3 [www.mchenryswcd.org](http://www.mchenryswcd.org)

March 11, 2024

Salvador Olivo  
18417 Lincoln Road  
Harvard, IL 60033

Re: Parcel # 06-25-300-010  
Common Location: 21018 Dunham Road, Marengo, IL 60152  
NRI# L24-032-4588  
Zoning Change: A2 to B2 CUP

Dear Mr. Olivo:

The McHenry-Lake County Soil and Water Conservation District has carefully reviewed your application for a Natural Resource Information Report on the Salvador Olivo property as applied for in Report #L24-032-4588. Due to no new construction on the site, 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, but we would like to highlight a few resources on the property.

Earthwork in or near a wetland requires a permit from the Army Corps of Engineers or the McHenry County Department of Planning & Development. The McHenry County ADID Wetland Inventory indicates the presence of Wetlands near or within the northern area of the new parcel (see attached ADID Wetland Locations Map). The Natural Resource Conservation Service inventory indicates the presence of Farmed Wetland Pasture near or within the northern area of the new parcel (see attached NRCS Wetland Locations Map). It is recommended that a jurisdictional wetland delineation be performed on this parcel before any additional construction occurs. Please contact the Army Corps of Engineers and McHenry County Department of Planning & Development for permit information.

Office maps also indicate the presence of hydric soil near or within the northern area of the new parcel (see attached Hydric Soil Locations Map). Our wetland inventory is 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.

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.

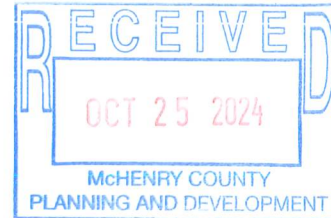
Sincerely,

**DUNHAM TOWNSHIP**

107 Airport Road  
Harvard, Illinois 60033

14 October 2024

To: Linnea Koostra  
Chair of the McHenry County  
Zoning Board of Appeals  
McHenry County Government Center  
2200 North Seminary Avenue  
Woodstock, IL 60098



Subject: Petition 2024-021

Chair Koostra and McHenry County Zoning Board of Appeals;

The Township of Dunham wishes to state its opposition to Petition 2024-021, Salvador Olivo. At the 10 September meeting of the Dunham Township Board of Trustees, the Board reviewed the Petition, and listened to the statements from the Dunham Township Planning Commission and the public. The Board discussed the various questions and concerns for changing the zoning from A-2 to B-1, the Conditional Use and the Variation that are being requested.

The Planning Commission pointed out that the Property In Question is in an area that is shown as Ag in both the McHenry County and Dunham Township Land Use Plans.

Mr. Olivo is the owner of the property, however it appears that he is not the owner of the business which has been and would be using it.

It appears that there is currently a family of 5 living in the house. The application says that the house will only be used as an office, and that they are not currently planning on using the house as an apartment.

The application states there will only be 5 cars at the property during the daytime and only 8 box trucks. However, currently there are often as many as 10 to 12 or more, cars and an equal number or more, of box trucks.



All of the surrounding property is zoned as A-1 and is being farmed.

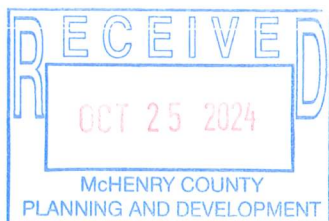
In simple terms, changing this parcel to B-1 would result in "Spot Zoning", often referred to as an entering wedge, which leave the area open to further development of the same or similar type.


The Planning Commission pointed out that if the Property In Question were to be rezoned to B-1, any use that is permitted on B-1 could be operated on the property going forward. Its use would not be restricted to the current use as on off-site service business, installing and replacing rain gutters.

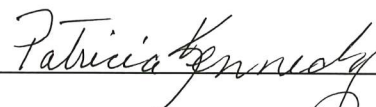
After lengthy discussion the Dunham Township Board of Trustees voted unanimously to oppose Petition 2024-021.


Please note Dunham Township's opposition to Petition 2024-021.

Respectfully submitted this  
14<sup>th</sup> day of October 2024



  
\_\_\_\_\_  
John Pihl  
Supervisor of Dunham Township

  
\_\_\_\_\_  
Patricia Kennedy  
Chairman Dunham Township  
Planning Commission

  
\_\_\_\_\_  
Attested to by Township Clerk,  
Jennifer L. Pihl