

ZONING BOARD OF APPEALS

KANE COUNTY, ILLINOIS

IN RE MAXXAM PARTNERS, LLC)
APPLICATION FOR SPECIAL USE)
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)
)
)

Petition No. 4364

ZBA APPEAL HEARING EXHIBITS

November 17, 2015 – 7:00 p.m.

Exhibit 1

RIDER TO APPLICATION FOR SPECIAL USE

Applicant, Maxxam Partners, LLC, a Delaware limited liability company ("**Applicant**"), for its Application for a Special Use, states as follows:

Property Information:

Parcel Number(s): 08-03-100-009; 05-34-300-032; 05-34-400-025
Street Address: 41W400 Silver Glen Road, St. Charles, Illinois 60175

Applicant / Contract Purchaser Information:

Name: Maxxam Partners, LLC
Address: c/o Andrew E. Kolb, Esq. & F. Keith Brown, Esq., Meyers & Flowers, LLC, 3 Second Street, Suite 300, St. Charles, Illinois 60174
Phone: Andrew E. Kolb: 630-513-9800
Fax: Andrew E. Kolb: 630-513-9802
Email: Andrew E. Kolb: akolb@vklawfirm.com

Applicant's Team: Copies of the biographies and/or curriculum vitae of Applicant's team members are incorporated herein as **Exhibit A**.

Co-Applicant / Owner of Record Information:

Name: Glenwood Academy, an Illinois not-for-profit corporation.
Address: c/o Mary Hollie, President, Glenwood Academy, 500 West 187th Street, Glenwood Illinois, 60425.
Phone: c/o Mary Hollie, President, Glenwood Academy; (708) 576-5054
Fax: c/o Mary Hollie, President, Glenwood Academy; (708) 756-5676
Email: c/o Mary Hollie, President, Glenwood Academy; mhollie@glenwoodschoool.org.

I. General Background

- 1.1 The Property – The Subject Property is comprised of approximately 120.0574 acres and is located at 41W400 Silver Glen Road, St. Charles, in unincorporated Kane County, Illinois. The Subject Property is located south of McDonald Road, west of Corron Road and north of Silver Glen Road, in unincorporated Kane County. The ("**Subject Property**") is legally described in **Exhibit B** attached hereto.
- 1.2 Previous Use – Kane County approved the existing special use for the Subject Property on May 9, 1989. The approval granted the Glenwood School for Boys (subsequently renamed, Glenwood Academy) permission to operate a private boarding school for at-risk children on the Subject Property. The special use has existed since 1989 without incident or revocation. The special use remains in effect; however the Glenwood Academy permanently closed the school in June 2012 and the Subject Property is currently unoccupied.
- 1.3 Applicable Code Provisions - The Subject Property is located in the "**F**" **Farming Zoning District** of the Kane County Zoning Ordinance.

Pursuant to Section 25-8-1-2(dd) of the Kane County Zoning Ordinance, Special Uses within the “F” district also include:

“Other uses **similar** to those permitted herein as special uses.”

In accordance with Section 25-8-1-2(a) of the Kane County Zoning Ordinance, the enumerated “special uses” in the “F” Farming Zoning Classification include by cross-reference, all “special uses allowed in the R1 District.” Thus, all special uses permitted in the “F” district include all special uses permitted in the R1 District by reference.

Pursuant to Section 25-9-5-2(c), the following special use is expressly permitted within the R1 District (and by reference thereby within the “F” Farming District where the Subject Property is Located):

“Hospitals, general, for human beings. This may include power plants, residence for nurses and similar facilities.”

Pursuant to Section 25-8-1-2(q), Special Uses within the “F” district also include:

“Monasteries, nunneries, religious retreats, **nursing and convalescent homes**, assisted living facilities, boarding schools and orphanages.”

Furthermore, Section 5.3(b) of the Kane County Zoning Ordinance states that “no section, clause or provision of this Ordinance is intended nor shall be construed as contrary to the Federal Fair Housing Act,” *and it* implicitly acknowledges the County’s mandate to provide such accommodations to persons with disabilities.

Additionally, pursuant to Section 5.15 of the County Ordinance, “the Enforcing Officer may allow land-uses which, though not contained by name in a zoning district list of permitted or special uses, are deemed to be similar in nature and clearly compatible with the listed uses.”

Applicant submits the legal opinions of Holland & Knight, LLP and Meyers & Flowers, LLC attached herein as **Tab #12** and **Tab #13**, respectively, in support of the zoning analysis outlined above.

- 1.4 Applicant’s Proposed Use - Applicant proposes to use the existing buildings and infrastructure on the Subject Property for a 120-bed exclusively private-pay alcoholism and substance abuse treatment facility. The facility will offer patients a full continuum of care while they reside at Applicant’s facility. The average duration of a patient’s stay will be between 30 – 90 days. The duration of a patient’s stay is determined by the patient’s addiction and treatment plan. Applicant will treat all addictions with the exceptions of methamphetamine and sexual addictions. Applicant will also treat patients with eating disorders. Applicant will not accept Medicare or Medicaid. “Private-pay” patients will be pre-screened to ensure that they meet Applicant’s patient standards, medically and financially.

Applicant's treatment programs are personalized using what evidence tells the staff will work for each particular patient. Applicant's professional staff assesses and diagnoses patients, collaborates with the patient and devises a treatment plan that will meet their individual needs. Among the resources Applicant's staff will use in alcoholism and substance abuse treatment are dialectical behavioral therapy, cognitive behavioral therapy, medication-assisted treatment, psychotherapy, art therapy, and a sobriety curriculum.

The Subject Property is ideally suited for the proposed use as an alcoholism and substance abuse treatment facility. The existing facility (with minor interior cosmetic updates and renovations) provides a private residential setting for patients. Applicant proposes to maintain the original footprint of the former Glenwood Academy and will limit renovation activities solely to the existing structures. No new buildings or structures will be constructed.

Per the submitted aerial overlay (**Tab #7**); there are eight existing residential dormitories that will be used as patient lodges. The eight patient lodges will house patients with separate buildings for men and women. Patient Lodge #1 will be used for "medically managed detoxification." Patient Lodges #2 - #8, will house patients according to their needs and the type of treatment they will be receiving.

The "Dining/Multi-Purpose Building" will be used as a central dining room and a multi-purpose room for movies, motivational speakers, and other group therapy activities. The "Therapy and Activity Building" contains twelve rooms that will be utilized for individual and group therapy sessions, art therapy, music therapy, yoga and meditation. The Applicant considers exercise to be an important component of treatment. As such, the existing Gymnasium will become a 25,000 square foot recreation center for exercise, yoga, basketball, volleyball, and other physical activities. Applicant plans to convert certain interior spaces within the recreation center into modern weight training and cardiovascular fitness rooms.

The facility will be licensed by the Division of Alcoholism and Substance Abuse of the Illinois Department of Human Services and will be accredited by the Joint Commission on Accreditation of Health Care Organizations (JCAHO). The level of care provided will be in accordance with that specified in the American Society of Addiction Medicine's (ASAM) Patient Placement Criteria and with the related administrative code.

II. Development Requests – Application for a Special Use “similar” to a Hospital and a Nursing and Convalescent Home.

2.0 Development Requests – Applicant requests the following development approvals:

- (a) Applicant requests a Special Use to operate the Subject Property as an alcoholism and substance abuse treatment facility in accordance with the ordinances and analysis outlined in Section 2.1, this Rider, and the materials incorporated in Section III hereof; and

(b) Applicant requests “reasonable accommodation” with respect to Applicant’s proposed facility. Applicant’s proposed alcoholism and substance abuse treatment facility will provide in-patient residential treatment to persons with disabilities who are protected under the terms of the Federal Fair Housing Act.

2.1 Applicable Ordinances – As referenced in Section 1.3 above, the Subject Property is located in the “**F**” **Farming Zoning District** of the Kane County Zoning Ordinance.

Pursuant to Section 25-8-1-2(dd) of the Kane County Zoning Ordinance, Special Uses within the “F” district also include:

“Other uses similar to those permitted herein as special uses.”

In accordance with Section 25-8-1-2(a) of the Kane County Zoning Ordinance, the enumerated “special uses” with the “F” Farming Zoning Classification include by cross-reference, all “special uses allowed in the R1 District.” Thus, all special uses permitted in the “F” district include all special uses permitted in the R1 District by reference.

Pursuant to Section 25-9-5-2(c), the following special use is expressly permitted within the R1 District (and by reference thereby within the “F” Farming District where the Subject Property is Located):

“**Hospitals, general, for human beings. This may include power plants, residence for nurses and similar facilities.**”

Pursuant to Section 25-8-1-2(q), Special Uses within the “F” district also include:

“Monasteries, nunneries, religious retreats, nursing and convalescent homes, assisted living facilities, boarding schools and orphanages.”

Furthermore, Section 5.3(b) of the Kane County Zoning Ordinance states that “no section, clause or provision of this Ordinance is intended nor shall be construed as contrary to the Federal Fair Housing Act,” *and it* implicitly acknowledges the County’s mandate to provide such accommodations to persons with disabilities.

In further support of Applicant’s development petition, Applicant requests that the Commission and Board note Section 5.15 of the Kane County Zoning Ordinance. Section 5.15 is evidence that the overall spirit and intent of the Kane County Zoning Ordinance is to permit existing land uses consistent and similar to existing permitted and special uses. More specifically, Section 5.15 vests the Zoning Enforcement Office of Kane County with the authority to examine existing uses in the County that are not enumerated as either permitted or special uses under the Code, and thereafter, to make a determination that the use being examined is allowed based solely upon the fact that it is “similar” to an existing use enumerated under the Zoning Ordinance. This section is consistent with Applicant’s development petition.

Applicant submits the legal opinions of Holland & Knight, LLP and Meyers & Flowers, LLC attached herein as **Tab #12** and **Tab #13**, respectively, in support of its zoning analysis outlined above.

Analysis of similarity pursuant to Section 25-8-1-2(a) – Applicant’s proposed use for the Subject Property as an alcoholism and substance abuse treatment facility is substantially similar to that of a hospital, in terms of both facility operations and Illinois licensure law. These similarities include:

- (a) Compliance with National Fire Protection Association’s Life Safety Code,
- (b) Compliance with emergency care regulations,
- (c) Compliance with patient room and bath facility regulations,
- (d) Compliance with food preparation, nutrition, and dining facility regulations,
- (e) Compliance with housekeeping and laundry service regulations,
- (f) Compliance with patient rights standards,
- (g) Compliance with standards for maintenance of patient records,
- (h) Compliance with quality improvement and utilization review regulations,
- (i) Compliance with facility staffing and staff qualification standards,
- (j) Diagnostic services,
- (k) 24-hour observation, monitoring and treatment,
- (l) The administration of medicine,
- (m) Investigation of complaints in patient care,
- (n) Inspections before license renewals; and
- (o) Right to deny a license or impose a moratorium.

Murer Consultants, Inc. – Expert Opinion

Applicant hereby submits the expert opinion of Murer Consultants, Inc. (“Murer Consultants”), in support of Applicant’s position that the proposed use as an alcoholism and substance abuse treatment facility is “similar” to a hospital under the Kane County Zoning Ordinance.

Murer Consultants concluded that the proposed facility is similar to a hospital as the term is defined under the Kane County Zoning Ordinance. Murer Consultants based this finding on the fact that the proposed facility substantially meets the definition of a hospital as defined under the Kane County Zoning Ordinance. Murer Consultants concluded that under Illinois licensure law, the facility staffing and service requirements applicable to the proposed facility share similar characteristics as those applicable to hospitals and the services provided by the proposed facility are regularly and customarily provided by hospitals in Illinois. Applicant submits the expert opinion of Murer Consultants attached herein as **Tab #11**.

Illinois Legislation

The Illinois statutes governing the licensure requirements of a hospital directly support the Applicant’s position that the Applicant’s proposed use as an alcoholism and substance abuse treatment facility is “similar” to a “Hospital” but exempts alcoholism and substance abuse

treatment facilities from being licensed as a hospital. It is clear that the legislature made the distinction to avoid unfairly burdening alcoholism and substance abuse treatment facilities with any unintended hardship. Furthermore, Illinois law requires facilities providing these services to be licensed *either* as a hospital or as an alcoholism and substance abuse treatment facility.

Illinois Hospital Licensing Act

Section 3(a) of the Hospital Licensing Act provides the legal definition of a “Hospital” in the State of Illinois:

“Hospital means any institution, place, building, buildings on a campus, or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of 2 or more unrelated persons admitted for overnight stay or longer in order to obtain medical, including obstetric, psychiatric and nursing, care of illness, disease, injury, infirmity, or deformity.”

Section 3(a)(5) also states that:

“The term “Hospital” does not include:

(5) any person or facility required to be licensed pursuant to the Alcoholism and Other Drug Abuse and Dependency Act.”

Applicant’s proposed use requires licensure under the Alcoholism and Other Drug Abuse and Dependency Act. Devoid of the exemption provided under Section 3(a)(5) as mentioned above, the Applicant would have to be licensed as a “Hospital.” Thus, the definitions are so similar that the distinction was made in Section 3(a)(5) of the Illinois Hospital Licensing Act, so that alcoholism and substance abuse treatment facilities would not be burdened with any unintended hardship.

Existing Hospital Facilities

Another factor demonstrating the similarity between a “Hospital” and an “alcoholism and substance abuse treatment facility,” is that many existing alcoholism and substance abuse treatment facilities in the State of Illinois are physically located in a hospital or on a campus and *are licensed as hospitals*. In addition to medically managed detoxification, many licensed hospital facilities also provide inpatient residential alcoholism and substance abuse treatment.

Examples of hospitals that provide in-patient residential alcoholism and substance abuse treatment include:

- (a) Captain James A Lovell Federal Health Care Center, 3001 Green Bay Road, Building 11, North Chicago, 60064;
- (b) Loretto Hospital Addiction Center, 645 South Central Avenue, Chicago, Illinois 60644;
- (c) Edward J. Hines Veterans Administration Hospital, Substance Abuse Section, 100 5th Avenue, Hines, Illinois;

- (d) Behavioral Health Services of Central DuPage Hospital, 27 West 350 High Lake Road, Winfield, Illinois 60190;
- (e) Saint Bernard Hospital, 326 West 64th Street, Chicago, Illinois 60621;
- (f) Holy Family Medical Center, “*Keys to Recovery Program*,” 100 North River Road, Des Plaines, Illinois, 60016,

Analysis of similarity pursuant to Section 25-8-1-2(q) – Applicant’s proposed use for the Subject Property as an alcoholism and substance abuse treatment facility is substantially similar to that of a “Nursing and Convalescent Home.” In support of the Applicant’s proposed use to that of a “Nursing and Convalescent Home,” Applicant hereby submits and incorporates herein the legal opinions of Holland & Knight, LLP and Meyers & Flowers, LLC attached herein as **Tab #12** and **Tab #13**, respectively. The Kane County Zoning Ordinance defines “Nursing and Convalescent Home” as “a building and premises for the care of sick, infirm, aged, or injured persons to be housed; or a place of rest for those who are bedfast or need considerable nursing care, but not including hospitals, assisted living facilities or group homes.” The law firm, Holland & Knight, states in their legal opinion that “the defined ‘Nursing and Convalescent Home’ use best describes the residential dwelling arrangements for the residents of the facility.” Furthermore, “the patients of the proposed residential alcoholism and substance abuse treatment facility are disabled and sick, and will be housed in seven separate resident lodges. Each lodge is a home or dwelling unit as it contains bedrooms with private bathrooms, a kitchen, and a dining/living room area.” Also “the patients’ medications will be administered to them in the lodges by the facility’s professional staff, the same as in a Nursing Home.”

Legal Opinions – In support of Applicant’s entitlement to this Special Use and Applicant’s request for “reasonable accommodation” under the Federal Fair Housing Act as set forth herein, Applicant hereby submits and incorporates herein the legal opinions of Holland & Knight, LLP and Meyers & Flowers, LLC attached herein as **Tab #12** and **Tab #13**, respectively.

III. Submission Materials

Along with the filing of its Application, and in support thereof and in support of all standards applicable to a Special Use and Applicant's development requests as set forth herein, the Applicant submits and incorporates herein the following required attachments and supplemental materials:

Ex. A	Principal Biographies
Ex. B	Legal Description
Tab #1	ALTA Survey
Tab #2	Kane / DuPage Soil and Water Conservation District Land Use Opinion
Tab #3	Land Use Opinion Waiver(s)
Tab #4	IDNR – Endangered Species Report
Tab #5	Certification of Notice to Adjacent Property Owners / List of Adjacent Property Owners
Tab #6	Aerial Photo – Sidwell
Tab #7	Site Plan Aerial with Building Identifiers
Tab #8	Concept Meeting Power Point Presentation
Tab #9	Holland & Knight – Legal Opinion
Tab #10	Meyers & Flowers, LLC – Legal Opinion
Tab #11	Murer Consultants, Inc.- Expert Opinion - “Similarity”
Tab #12	Market Impact Study – MaRous & Company
Tab #13	Fiscal Impact Study – Poletti and Associates, Inc.
Tab #14	Schaeffer & Roland, Inc. – Wastewater System Evaluation
Tab #15	KLOA Summary Traffic Evaluation
Tab #16	Photographs of Property and Improvements
Tab #17	Digital Submission
Tab#18	Opinion from John Curtiss of The Retreat
Tab#19	Land Use Opinion – J. Christopher Lannert
Tab #20	Application Fee / Kane County Application Forms

IV. Criteria

Special Uses - Section 4.8 of the Kane County Zoning Ordinance sets forth the procedures and criteria for granting a Special Use hereby addressed by the Applicant. Section 4.8-1 states that:

“Uses as hereinafter enumerated, which may be proposed for classification as “special uses,” shall be considered at a public hearing before the Zoning Board, and its report of findings or fact and recommendations shall be made to the County Board following the public hearing; provided, that the County Zoning Board, in its report of findings or facts and recommendations to the County Board, shall not recommend a special use unless the Zoning Board shall find:

- (a) That the establishment, maintenance or operation of the special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare;**

The establishment of the specific special use sought here, an upscale, alcoholism and substance abuse treatment facility, will serve to improve the public health, safety, morals, comfort, and general welfare of the community. The proposed facility will provide upscale in-patient residential treatment as well as many opportunities for healthful recreation and recuperation on-site. The facility will commit to participating in substantial community outreach programs with local schools, religious groups and other agencies in an effort to improve alcoholism and substance abuse awareness within the community. The treatment and amenities provided by the proposed facility will improve the health of its patients and aid in their recovery and its outreach programs will aim do the same for members of the community.

To address the safety and comfort of its patients and the community, Applicant will have strict written admittance and discharge policies for all patients. Prior to granting admission to the facility, a phone interview is conducted with the patient seeking treatment. During this initial phone interview, all prospective patients are thoroughly pre-screened by Applicant to ensure that all participants in the treatment programs meet (i) Applicant's financial admissions criteria; and (ii) Applicant's treatment criteria. Once patients are onsite they undergo further screening by staff members to ensure they are medically, socially, and emotionally stable enough to meet the requirements of Applicant's programs. Applicant has strict policies prohibiting guests from leaving the premises unaccompanied prior to completing the program.

In support of the position that the proposed use will not be detrimental to or endanger public health, safety, morals, comfort or general welfare, Applicant hereby submits the expert opinion letter of John H. Curtiss, President of The Retreat, a nonprofit residential alcoholism and substance abuse treatment facility located in Wayzata, Minnesota (**Tab #18**). Mr. Curtiss has 35-years of operational experience and his letter addresses possible concerns that may arise from the County Board and/or community. Mr. Curtiss, states that incomplete stays, voluntary discharges, and "walk-outs" are rare for high-end alcoholism and substance abuse treatment facilities. Mr. Curtiss, states that in his experience those who choose to invest in an expensive treatment program are highly motivated to complete the program successfully and are thus unlikely to leave prematurely. In the case of Applicant's facility, should a patient choose to leave the facility prior to completing the program, Applicant will provide a private car service to transport the patient from the facility to a pre-designated location selected by the patient prior to admission.

The proposed use will also serve to improve the safety and general welfare of the community by providing certainty with respect to the Subject Property. The Subject Property has been vacant since June 2012. The vacant nature of the property has led to numerous reported incidents on the property. These incidents include theft, trespass, loitering, yard waste dumping, and destruction of property. The most recent occurrence took place in April 2015, when criminal damage was reported to the authorities.

The Applicant will ensure the safety and security of its patients and the surrounding community by providing both onsite and third party monitoring systems with video cameras at the premises, security guards, and thermal cameras that will monitor the perimeter while maintaining the aesthetics of the surrounding Forest Preserve District.

(b) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

The proposed alcoholism and substance abuse treatment facility will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. The Applicant proposes to use the Subject Property “as-is” on its existing footprint, and Applicant does not intend to construct any new buildings or perform other exterior improvements which might impede the use or enjoyment of other property in the surrounding area. The only improvements planned for the campus are cosmetic updates to the interiors of the structures.

The proposed special use will not diminish or impair property values within the surrounding area. Applicant has commissioned two separate market impact studies to determine the impact, if any, of the proposed special use on the surrounding property owners. The studies were performed by MaRous & Company, and Poletti and Associates, Inc. and are incorporated herein as **Tab #12** and **Tab #13**, respectively.

MaRous & Company

Michael S. MaRous, MAI, CRE has appraised more than \$15 billion worth of primarily investment-grade real estate in more than 25 states. Mr. MaRous has provided highest and best use, marketability, and feasibility studies for a variety of properties. Many of the largest redevelopment areas and public projects, including Interstate 355, the O’Hare International Airport expansion, the Midway Airport expansion, and the McCormick Place expansion are part of Mr. MaRous’ experience. Mr. MaRous is a former Mayor of Park Ridge, Illinois and a member of the Appraisal Institute, MAI and has published numerous books on the topic of real estate. The complete biography of Mr. MaRous and a list of his representative clients and projects are found within his expert opinion incorporated herein.

Highest and Best Use. The MaRous & Company (“MaRous”) Market Impact Analysis study dated August 20, 2015 made a number of findings. Specifically, the study found that the approval of a special use permit for the proposed alcoholism and substance abuse treatment facility is the highest and best use of the property and is less intense than the prior use as a boarding school for at-risk children. According to the study, the facility will provide “on-going maintenance as opposed to a vacant and potentially neglected property, financial benefits to the taxing bodies, and a single access point into the facility. In addition, the client population will be tightly controlled. Therefore, the highest and best use of the existing facility is as a high-end alcoholism and substance abuse treatment facility.” The study found that there are few viable options for the use of a property of

this size and character, and that demand for such a property is minimal given that few buyers would have the resources to purchase and operate a facility of this quality and size.

No Negative Effect Upon Surrounding Property Values. The MaRous study also found that the proposed use as an alcoholism and substance abuse treatment facility will not have a measurable negative impact on either, (i) the character; or (ii) the property values of adjoining uses. Specifically, Mr. MaRous conducted a comprehensive “matched pair analysis” of a similar facility in a similar geographic area and a “‘Before’ and ‘After’ Value Assessment” on nearby residential property to confirm and conclude that the Applicant’s proposed facility will not result in a negative effect upon surrounding monetary property values due to the proximity of Applicant’s in-patient residential treatment facility. Furthermore, the study found that the uncertainty created by a vacant facility, and the long-term potential maintenance problems on the current abandoned site appear to be a bigger threat to property values in the area than the proposed treatment facility. MaRous pointed out that there are few viable options for the use of a property of this size and character, and that demand for such a property is minimal given that few buyers would have the resources to purchase and operate a facility of this quality and size.

Poletti and Associates

Dr. Peter J. Poletti, Jr., MAI holds degrees from the University of Illinois, Southern Illinois University, and St. Louis University. Dr. Poletti served as an Assistant Professor of geography at the University of Missouri-St. Louis and has taught college courses in both real estate and economics. Poletti is a certified appraiser through the Appraisal Institute and has over 30 years of real estate experience. A list of representative clients and projects on which he has performed analysis can be found within Dr. Poletti’s Resume affixed to his expert report incorporated herein.

The study performed by Poletti and Associates, Inc. (“Poletti”), dated June 21, 2015 provides an analysis and evaluation of the Subject Property and surrounding area. The study applied various elements from a variety of techniques to reach conclusions. The techniques used by Poletti include: Hedonic Price Modeling, Multiple Regression Modeling, a Comparison of Averages technique, and Paired Sales Analysis. In Poletti’s study, Poletti first created a Target Area together with a nearby Control Area in the vicinity of a currently operating alcoholism and substance abuse treatment facility to determine if the facility had a measurable effect upon property values based upon recent arms-length real estate transactions. In Poletti’s study, analysis was made of the Rosecrance Center in Rockford, Illinois and the Timberline Knolls facility in LeMont, Illinois.

Timberline Knolls is a 164-bed alcoholism and substance abuse treatment facility similar to Applicant’s proposed facility and is located on 43 wooded acres in LeMont, Illinois. The Timberline Knolls facility was converted into its current use in 2005. The campus is a combination of older and newer structures. Poletti created both a Target Area in close

proximity to the facility and a nearby Control Area for comparison. Applying his techniques, Poletti concluded that the presence of the facility had no statistically measurable effect upon property values within the Target Area as compared to the nearby Control Area. In sum, with respect to Timberline Knolls, the presence of the facility did not negatively affect property values.

The Rosecrance Center in Rockford, Illinois is a rehabilitation facility similar to Applicant's proposed facility and is located on a 50 acre site. The Rosecrance Center's facility houses 96 beds within 67,000 square feet and includes a gymnasium and workout facility. The Rosecrance Center's facility is surrounded by farmland and a residential subdivision. In viewing this facility, Poletti applied a comparison of overall average prices technique, a multiple regression analysis and a paired sales analysis. As was the case with Timberline Knolls, Poletti again found that the presence of the Rosecrance Center's facility did not negatively affect property values based upon arm's length transactions.

In addition to the forgoing comparison studies, Poletti also examined the physical characteristics of the Applicant's proposed site in Kane County. Dr. Poletti in his study, concluded that the proposed alcoholism and substance abuse treatment facility will be located to minimize the effect on the property values of the surrounding property. The study focuses in part on the geographic layout of the site and the fact that the site does not appear to be visible from nearby residential properties. Poletti observes that to the south of the Subject Property the closest residential properties are the homes located in the Silver Glen Meadows Subdivision on the north side of Silver Glenn Road. The homes in this subdivision are set back from views of the facility by a combination of distance and existing tree lines.

Importantly, Poletti points out that the facility essentially is screened and is set back from nearby properties with residential uses, a key factor in reaching the conclusion that the facility will have no negative effect upon property values. In this regard, Poletti notes specifically that the facility is located in an area with a high proportion of open space and agricultural land that serves as a setback for adjacent property owners. Poletti points out that the Kane County Forest Preserve adjoins the property on the east, south, west, and partially on the north sides of the property. The designated Forest Preserve property is used to restore and preserve native prairie habitat and will not be developed for more intensive use.

Poletti also notes that the nature of the single point of access to the facility will also help minimize the effect on surrounding property values. The use of only one access point means that traffic to and from the facility will essentially be limited to Silver Glen Road (which was the case with the Glenwood Academy). In further support of the proposition that the single point of access will mitigate diminution of property values in the surrounding area, Applicant submits and incorporates herein the traffic study of Kenig, Lindgren, O'Hara, Aboona, Inc. (as further outlined in detail below in Standards (e) and (d)).

Finally, Poletti found that the proposed use provides certainty, specifically the ongoing quality maintenance of an occupied facility, as opposed to vacant property which becomes an attractive nuisance if not maintained.

Positive Fiscal Impact

The proposed facility will have a positive fiscal impact on Kane County. The Subject Property is currently owned by Glenwood Academy, an organization that is tax-exempt under IRC §501(c)(3). Due to its tax-exempt status, Glenwood Academy did not pay income taxes to the Internal Revenue Service (IRS) or to the Illinois Department of Revenue. More importantly, Glenwood Academy did not pay real estate taxes to Kane County or its taxing bodies. The Applicant's for-profit proposed use would not be tax-exempt and therefore the Subject Property would return to the real estate tax rolls of Kane County. The return of such a high value property to the tax rolls would provide for an increase in the real estate tax base and generate significant income for the school district, forest preserve district, library district, sanitary district, and other taxing bodies. Over \$250,000 of real estate tax revenue generated from the Subject Property will be earmarked for Kane County School District 301 without increasing the number of students in the district. A complete breakdown of property tax revenue is included below:

Campton Township Taxing District		
Purchase Price	\$9,750,000	
Estimated Assessment	\$3,250,000	
2014 Tax Rate	10.365477%	
Estimated RE Taxes	<u>\$336,878</u>	
Kane County	0.46836%	\$15,222
Forest Preserve	0.31263%	\$10,160
Campton Township	0.555845%	\$18,065
Campton Roads	0.26093%	\$8,480
Campton Cemetery	0.00277%	\$90
Central School District 301	7.882872%	\$256,193
Elgin College 509	0.607621%	\$19,748
Fox River Fire & Countryside Fire District	0.274449%	\$8,920
Campton Solid Waste	0.0000%	\$0
	10.365477%	\$336,878

In addition to the aforementioned taxation benefits, the proposed use of the facility will be a creator of jobs in the surrounding community. The facility will employ and/or contract with between 80-120 people in diverse job functions. The jobs that will be created by this project include medical directors, psychologists, therapists, counselors, registered nurses, receptionists, maintenance workers, as well as janitorial and kitchen

staff. The number of high-paying jobs created by the proposed facility will have a positive impact on the local economy. Furthermore, the number of professional jobs created by this facility may also have a positive effect on home values in the surrounding area by increasing the demand for such product due to the professional staff looking for homes close to the facility. Lastly, there will be immediate construction jobs created through the renovation of the existing structures on the campus, as Applicant will bid the renovation work to local contractors.

(c) That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;

The proposed facility will maintain the vast open space of the Subject Property and will not impede the development and improvement of the surrounding property. The Subject Property is predominately surrounded by property owned by the Kane County Forest Preserve District and thus Applicant's proposed use will not affect in any manner any permitted development in adjacent or nearby areas. The application contains a memorandum authored by land planning expert J. Christopher Lannert of The Lannert Group (attached herein as **Tab #18**). Mr. Lannert is an Illinois registered landscape architect with over 30-years' experience in all facets of land planning. This memorandum provides historical and present day context of the existing conditions that impact the property. Lannert concludes that the Applicant's proposed use will not and cannot affect the normal orderly development or improvement of the surrounding area. Lannert bases this conclusion on a number of factors including:

- (1) That the existing corporate limits of the surrounding communities will control future.
- (2) That the established uses in the area and permitted rights of the underlying zoning, dictate future development.
- (3) That the historical open space policies of the jurisdictions, the existing open space commitments on site, and the abutting Forest Preserve holdings, prevent any transitional impact on adjacent properties.
- (4) The self-contained, inward orientation of the existing facility will not affect future development.

Furthermore, as stated in Standard (b) above, the Market Impact Analyses performed by MaRous and Poletti indicate that the proposed treatment facility will have no measurable negative effect on the value of homes in the surrounding area.

(d) That adequate utility, access roads, drainage and/or other necessary facilities have been or are being provided;

Adequate utilities, access roads, drainage, and other necessary facilities exist on the Subject Property. The existing infrastructure and improvements were sufficient to serve the prior-existing use, the Glenwood Academy and have been demonstrated to be sufficient to serve the Applicant's proposed special use.

The Subject Property is presently served by a private water and wastewater system, which has been demonstrated to be capable of serving the proposed facility. Sheaffer & Roland, Inc. ("Sheaffer & Roland") conducted an evaluation on the Subject Property's private water and wastewater system. The study concluded that the water, fire, and wastewater systems currently in place are the correct size to accommodate the Applicant's proposed use as a treatment facility. The study found that the existing potable water storage can supply the target population for three days at its maximum demand level, and that the wastewater system is appropriately sized for the proposed facility. The study also concluded that all water systems in place have been well maintained and are in good operating condition. A copy of the report prepared by Sheaffer & Roland, dated May 9, 2015 titled "Glenwood School for Boys and Girls Water and Wastewater System Evaluation" is attached hereto as **Tab #14**.

The Applicant includes a copy of the Summary Traffic Evaluation prepared by Kenig, Lindgren, O'Hara, Aboona, Inc. ("KLOA"), which concludes that given the existing low volume of traffic along Silver Glen Road, additional traffic generated from Applicant's proposed facility will not have a detrimental effect on Silver Glen Road traffic. KLOA also concluded that the existing access drive and westbound right-turn lane on Silver Glen Road will adequately serve the traffic generated from Applicant's proposed facility and that a traffic signal is not warranted or necessary at the intersection of Silver Glen Road and the Access Drive. Given that the Applicant's facility will generate less traffic than the Glenwood Academy, the access road will meet the needs of Applicant. A copy of the traffic evaluation prepared by KLOA dated June 22, 2015 is attached as **Tab #15**.

(e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets and roads;

As stated above in Standard (d), the Subject Property contains adequate means of ingress and egress that were designed to minimize traffic and congestion created by the more-intensive previous use of the property, the Glenwood Academy. The site contains a ½-mile access road that separates the property from Silver Glen Road.

The Applicant includes a copy of the Summary Traffic Evaluation prepared by KLOA, which concludes that given the low volume of traffic along Silver Glen Road, additional traffic generated from Applicant's proposed facility will not have a detrimental impact on Silver Glen Road traffic. KLOA also concluded that the existing access road and westbound right-turn lane on Silver Glen Road will adequately serve the traffic generated from Applicant's proposed facility and that a traffic signal is not warranted or necessary

at the intersection of Silver Glen Road and the Access Drive. No additional intersection or roadway improvements will be necessary to accommodate traffic for the site.

A copy of the traffic evaluation prepared by KLOA dated June 22, 2015 is attached as **Tab #15**.

(f) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County.

The Applicant's proposed use conforms to the regulations of the "F" Farming Zoning District of the Kane County Zoning Ordinance. As referenced in Sections 1.3 and 2.1 above, the Subject Property is located in the "F" Farming Zoning District of the Kane County Zoning Ordinance.

Pursuant to Section 25-8-1-2(dd) of the Kane County Zoning Ordinance, Special Uses within the "F" district also include: "Other uses similar to those permitted herein as special uses." In accordance with Section 25-8-1-2(a) of the Kane County Zoning Ordinance, the enumerated "special uses" with the "F" Farming Zoning Classification include by cross-reference, all "special uses allowed in the R1 District." Thus, all special uses permitted in the "F" district include all special uses permitted in the R1 District by reference. Pursuant to Section 25-9-5-2(c), the following special use is expressly permitted within the R1 District (and by reference thereby within the "F" Farming District where the Subject Property is Located): "Hospitals, general, for human beings. This may include power plants, residence for nurses and similar facilities." Pursuant to Section 25-8-1-2(q), Special Uses within the "F" district also include: "Monasteries, nunneries, religious retreats, nursing and convalescent homes, assisted living facilities, boarding schools and orphanages."

Applicant has established that its proposed use of the Subject Property conforms to the regulations set forth under the Kane County Zoning Ordinance and is similar to a "Hospital" and "Nursing and Convalescent Home."

The Applicant's proposed use will provide consistency in ensuring that county regulations will continue in the future. Furthermore, Applicant's proposed use conforms to the Kane County 2040 Lane Plan as described in the **Supplemental Exhibit** incorporated herein. Additionally, the physical features of the site, including soils, drainage, access, utilities, and vegetation demonstrate the Applicant's commitment to land stewardship and the historical goals of Kane County and the objectives of the Forest Preserve District of Kane County are consistent with the philosophy and practicality of the Applicant's proposed use.

Lastly, Applicant has no immediate need or intent to construct additional buildings or make other improvements except those requested by the county and set forth in a special use ordinance, and the special use is an allowed special use in the "F" District. The proposed institutional use is consistent with the prior institutional use for the Glenwood School.

V. Miscellaneous.

Applicant requests that copies of all notices given to Applicant hereunder (or in connection with the actions requested to be taken herein) be sent to the following parties:

Andrew E. Kolb, Esq.
Meyers & Flowers, LLC
3 N. Second Street, Suite 300
St. Charles, Illinois 60174
Phone: 630-513-9800
Fax: 630-513-9802

akolb@vlklawfirm.com

EXHIBIT A
APPLICANT'S TEAM

Maxxam Partners, LLC – Principals

Mr. Steven Marco - Mr. Steven Marco is a fourth generation real estate developer. He has worked on branded real estate development projects connected to the Ritz-Carlton Hotel Company and Six Senses Hotels Resorts Spas. Mr. Marco graduated from Washington University in St. Louis with a Bachelor of Science in Business Administration and an Honors Designation in Management. Mr. Marco is a member of the University of Chicago's Harris School of Public Policy's International Council.

Maxxam Partners, LLC - Board of Advisors

Mr. Billy Zane – Mr. Billy Zane a native of Chicago and a graduate of Francis W. Parker School is a highly acclaimed actor, producer, artist and entrepreneur. Mr. Zane has been featured in more than 100 films. Mr. Zane's role as Caledon Hockley in the 1997 film *Titanic* garnered him a Blockbuster Movie Award as Best Supporting Actor. Among his other best-known credits are *Back to the Future*, *Dead Calm*, *Tombstone*, *Sniper*, *Zoolander*, *Orlando*, *The Phantom*, and *Twin Peaks*. Among the critically acclaimed independent films he has made, he has produced and starred in the celebrated film noir classic *This World, Then the Fireworks* and the silent film *I Woke Up Early the Day I Died*, which he produced with Muse Productions. Beyond acting, Mr. Zane is a highly reviewed and celebrated abstract expressionist who has recently had solo exhibitions in Los Angeles, London and Miami. Mr. Zane was recently awarded the 2013 Chicago Man of the Year Award by Men's Journal. In 2014, Mr. Zane starred as Captain von Trapp in the Lyric Opera of Chicago's, "The Sound of Music."

Mr. Hill Harper - Mr. Hill Harper is an award-winning actor, best-selling author, motivational speaker, and philanthropist. Mr. Harper starred on the CBS TV drama CSI: NY from 2004 to 2013. As of March 2013, he joined the USA spy drama Covert Affairs as a new series regular for season four. Mr. Harper is the author of four New York Times bestsellers and he has earned seven NAACP Image Awards for his writing and acting. Mr. Harper travels frequently as a motivational speaker, addressing a wide range of audiences, including, adults, couples, and business leaders. In July 2010, he was diagnosed with thyroid cancer. His best-selling book, *The Wealth Cure*, chronicles the cancer diagnosis and his journey to health. Mr. Harper graduated with his B.A., *magna cum laude* from Brown University and his J.D. *cum laude* from Harvard University Law School and Masters of Public Administration from the John F. Kennedy School of Government at Harvard University.

Stephen Holtsford, M.D. - Dr. Stephen Holtsford is the former Medical Staff President and attending physician in the emergency department of Delnor Community Hospital. He is Medical Director for the Southern Fox Emergency Medical Services System and currently resides in St. Charles, Illinois. Dr. Holtsford is the past Chair and a current member of Region IX's Emergency Medical Services Advisory Council, an Illinois council that serves as an advisory body to the Department of Public Health. He currently serves on the Continuing Medical Education Committee for Delnor Community Hospital. Dr. Holtsford is a past President of the Board of Directors of the Tri-City Health Partnership, a no-cost medical clinic serving the

disadvantaged in Kane County. Dr. Holtsford has continued to serve as member of the Board of Directors and volunteer physician of the Tri-City Health Partnership. Dr. Holtsford graduated with his B.A., *with honors* from the University of Illinois (Urbana-Champaign) and received his M.D. from the University of Illinois (Chicago). Dr. Holtsford completed a combined Emergency Medicine and Internal Medicine residency from the University of Illinois (Chicago). Dr. Holtsford is certified by both the American Board of Emergency Medicine and the American Board of Internal Medicine. Dr. Holtsford is a member of the American College of Emergency Physicians (Fellow), American Academy of Emergency Medicine (Fellow), and Physicians for Social Responsibility.

EXHIBIT B
LEGAL DESCRIPTION OF SUBJECT PROPERTY

THAT PART OF THE SOUTH HALF OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN AND PART OF THE NORTH HALF OF FRACTIONAL SECTION 3, TOWNSHIP 40 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN ALL DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 41 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN, THENCE EASTERLY ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER 339.90 FEET; THENCE SOUTHERLY TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER; THENCE NORTHERLY ALONG THE LAST DESCRIBED COURSE 980.77 FEET TO THE CENTER LINE OF MCDONALD DRIVE; THENCE NORTHWESTERLY AND WESTERLY ALONG SAID CENTER LINE 2884.59 FEET TO A POINT THAT IS 62.70 FEET WESTERLY OF THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 34 (MEASURED ALONG SAID CENTER LINE) BEING THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO HENRY O. LARSON AND ELIZABETH V. LARSON BY DEED RECORDED AS DOCUMENT 648085; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LARSON TRACT 776.0 FEET TO A POINT THAT IS 10.0 FEET NORTHERLY OF THE SOUTHEAST CORNER OF SAID LARSON TRACT; THENCE EASTERLY PARALLEL WITH THE SOUTH LINE OF SAID LARSON TRACT 24.85 FEET; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 68 DEGREES 59 MINUTES 52 SECONDS WITH THE PROLONGATION OF THE LAST DESCRIBED COURSE (MEASURED CLOCKWISE THEREFROM) 101.12 FEET; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 210.0 FEET, TANGENT TO THE LAST DESCRIBED COURSE 104.64; THENCE SOUTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 390.0 FEET, TANGENT TO THE LAST DESCRIBED CURVE, 90.96 FEET; THENCE SOUTHWESTERLY TANGENT TO THE LAST DESCRIBED CURVE 104.0 FEET; THENCE SOUTHERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 360.0 FEET TANGENT TO THE LAST DESCRIBED COURSE 94.87 FEET T A LINE DRAW PARALLEL WITH THE 59.25 FEET NORTHERLY OF THE SOUTH LINE (MEASURED AT RIGHT ANGLES THERETO) OF THE SOUTHWEST QUARTER OF SAID SECTION 34 FOR A POINT OF BEGINNING; THENCE EASTERLY ALONG SAID PARALLEL LINE 336.05 FEET; THENCE SOUTHEASTERLY ALONG A LINE FORMING AN ANGLE OF 157 DEGREES 06 MINUTES 37 SECONDS WITH THE LAST DESCRIBED COURSE (MEASURED COUNTER CLOCKWISE THEREFROM) 1418.0 FEET: THENCE SOUTHERLY ALONG A LINE FORMING AN ANGLE OF 122 DEGREES 50 MINUTES 43 SECONDS WITH THE LAST DESCRIBED COURSE (MEASURED COUNTER CLOCKWISE THEREFROM) 892.0 FEET: THENCE SOUTHWESTERLY ALONG A LINE FORMING AN ANGLE OF 99 DEGREES 11 MINUTES 29 SECONDS WITH THE LAST DESCRIBED COURSE (MEASURED COUNTER CLOCKWISE THEREFROM) 1863.0 FEET: THENCE NORTHERLY ALONG A LINE FORMING AN ANGLE OF 142 DEGREES 54 MINUTES 33 SECONDS WITH LAST DESCRIBED COURSE (MEASURED COUNTERCLOCKWISE THEREFROM) 1448.0 FEET; THENCE NORTHERLY ALONG A LINE FORMING AN ANGLE 117 MINUTES 39 MINUTES 28 SECONDS WITH THE LAST DESCRIBED COURSE (MEASURED COUNTER CLOCKWISE THEREFROM) 867.0 FEET: THENCE NORTHERLY ALONG A LINE FORMING AN ANGLE OF 172 DEGREES 26 MINUTES 59 SECONDS WITH THE LAST DESCRIBED COURSE (MEASURED COUNTER CLOCKWISE THEREFROM) 741.0 FEET TO SAID PARALLEL LINE; THENCE EASTERLY ALONG SAID PARALLEL LINE 1514.95 FEET TO THE POINT OF THE BEGINNING, IN KANE COUNTY ILLINOIS.

Parcel Number(s): 08-03-100-009; 05-34-300-032; 05-34-400-025
Street Address: 41W400 Silver Glen Road, St. Charles, Illinois 60175

Supplemental Exhibit - Kane County 2040 Land Use Plan

The proposed use of the Subject Property promotes the goals of the Kane County 2040 Land Use Plan (“The 2040 Plan,”) in the ways described below:

- a. The 2040 Plan’s “Quality of Kane” model emphasizes healthy people, healthy living and healthy communities and the unique coverage of three principal planning processes: transportation, health, and land use.¹ The special use recognizes these concepts. In order to promote healthy communities, the special use will not only treat individuals who suffer from disease of alcoholism and drug addiction, but will also commit to participate in substantial community outreach to community schools, religious groups, and other agencies to improve alcoholism and substance abuse awareness within the community.
- b. The 2040 Plan recognizes that the following factors contribute to Health: Physical Environment (10%); Clinical Care (20%); Health Behaviors (30%); and Socio-Economic (40%).² The proposed special use fits in with these factors. The physical environment of the site will not change and will therefore not impact surrounding neighbors and at the same time are a critical component for the health and well-being of the facility’s patients. The high-end clinical care provided by the proposed facility will improve the health of its patients, and its outreach will do the same for others in the community. Part of the treatment regimen of the proposed facility includes helping patients understand and make healthy behavioral and physical (diet and exercise) choices.
- c. The 2040 Plan recognizes the benefits of “Re-inhabitation,,” which is the adaptive re-use of existing structures for uses that provide for and contribute to society.³ The proposed adaptive re-use of the former Glenwood School will address a societal need for the effective treatment of alcoholism and drug addiction with no substantial changes to the existing facility.
- d. The 2040 Plan’s focus on community health expressly recognizes that alcohol misuse is among the challenges that face the citizens of Kane County⁴ and encourages environments that prevent excessive consumption of alcohol. The Facility’s treatment of individuals who have a dependency on alcohol and other substances combined with its community outreach programs address these important considerations.⁵ The Facility’s treatment of individuals who are addicted to alcohol and/or other unlawful substances combined with community outreach programs organized by the facility address these

¹ Kane County 2040 Plan, “Quality of Kane Model,” Page 11.

² Kane County 2040 Plan, “Contributing Factors to Health,” Page 41.

³ Kane County 2040 Plan, “Opportunities for Retrofitting Sprawling Land Use Patterns,” Page 53.

⁴ Kane County 2040 Plan “Community Health,” Page 79.

⁵ Kane County 2040 Plan “Community Health,” Page 98.

important aspects of community health.

- e. The 2040 Plan contains a list of “Ten Essential Services of Public Health.” They include: (1) Monitor health status and understand health issues facing the community; (2) Protect people from health problems and health hazards; (3) Give people the information they need to make healthy choices; (4) Engage the community to identify and solve health problems; (5) Develop public health polices and plans; (6) Enforce public health laws and regulations; (7) Help people receive health services; (8) Maintain a competent public health workforce; (9) Evaluate and improve programs an interventions; and (10) Contribute to and apply the evidence base of public health.⁶ The proposed special use contributes positively to these ten essential services outlined in The 2040 Plan.
- f. The 2040 Plan expressly recognizes the need for a policy of cross-sector collaboration to achieve community-wise wellness through partnerships with school districts, colleges, social service agencies, the faith-based community, non-profit organizations, hospitals, physicians, employers, park districts, municipal staff, elected officials, and other organization. The proposed facility is committed to significant community outreach and will assist in achieving the goal of cross-collaboration.
- g. The 2040 Plan expressly encourages the removal of barriers that unnecessarily discourage housing diversity.⁷ The proposed special use would allow for a residential treatment facility for disabled adults suffering from alcoholism and substance addictions.
- h. The 2040 Plan seeks to preserve and protect open space and green infrastructure as the cornerstone of natural resource protection and community well-being. A considerable portion of the 120 acre Subject Property is open space, and the Application is intended to commit permanently a portion of that open space by way of easement or other appropriate action.

⁶ Kane County 2040 Plan, “Ten Essential Services of Public Health,” Page 83.

⁷ Kane County 2040 Plan, “Housing Objectives,” Page 99.

Exhibit 2

Holland & Knight

131 South Dearborn Street, 30th Floor | Chicago, Illinois | T 312-263-3600 | F 312-578-6666
Holland & Knight LLP | www.hklaw.com

Memorandum

Date: August 19, 2015

To: Steven Marco, Maxxam Partners, LLC

From: Steven M. Elrod
Hart M. Passman

Re: Proposed Alcoholism and Substance Abuse Treatment Facility, Kane County, Illinois
Zoning Analysis

We have reviewed the Zoning Ordinance of Kane County, Illinois, and have determined that the property known as the Glenwood School for Boys, located at 41W400 Silver Glen Road in unincorporated Kane County, may be used for an alcoholism and substance abuse treatment facility, provided that a special use permit is approved by the County Board. We have also concluded that this use likely satisfies the standards for granting a special use at the specified location. Our analysis and findings are summarized below.

I. Permitted and Special Uses of the Subject Property.

There is no individual use in the County Zoning ordinance that explicitly references residential alcoholism and substance abuse treatment facilities. However, this use is included within several listed uses. The closest defined uses that encompass various portions of the proposed residential alcoholism and substance abuse treatment facility are:

- "*Assisted Living Facility*," defined as: "A building and premises where the proprietor furnishes lodging and varying degrees of custodial care to persons who are elderly or who require assistance in daily living, but are otherwise in good health."
- "*Convalescent or Nursing Home*," which is defined as: "A private home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders."
- "*Hospital or Sanitarium*," defined as: "An institution open to the public in which patients or injured persons are given medical or surgical care; or for the care of contagious diseases."
- "*Nursing and Convalescent Home*" (a separate term in the Zoning Ordinance) is defined as: "A building and premises for the care of sick, infirm, aged, or injured

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persons to be housed; or a place of rest for those who are bedfast or need considerable nursing care, but not including hospitals, assisted living facilities or group homes."

It is our opinion that the defined "hospital" use best describes the medically managed detoxification component of the proposed facility, and the defined "Nursing and Convalescent Home" use best describes the residential dwelling arrangements for the residents of the facility.

The Ordinance defines "Hospital or Sanitarium" as "an institution open to the public in which patients or injured persons are given medical or surgical care; or for the care of contagious diseases." The reference to "medical care" in the "hospital" definition comes closest to the proposed facility's treatment programs. We note that the proposed facility will have a licensed medical physician as its medical director, and that a licensed medical physician may see each facility patient daily, as needed. Also, the facility must have 24-hour staffing by either a registered or licensed nurse, or a certified emergency medical technician. This level of care and professional staff indicates that the facility will share many of the same characteristics as a hospital.

The Ordinance defines "Nursing and Convalescent Home" as "a building and premises for the care of sick, infirm, aged, or injured persons to be housed; or a place of rest for those who are bedfast or need considerable nursing care, but not including hospitals, assisted living facilities or group homes." We understand that the patients of the proposed residential alcoholism and substance abuse treatment facility are disabled and sick, and will be housed in seven separate resident lodges. Each lodge is a home or dwelling unit as it contains bedrooms with private bathrooms, a kitchen, and a dining/living room area. We further understand that the patients' medications will be administered to them in the lodges by the facility's professional staff, the same as in a Nursing Home.

The subject property is located in the "F" Farming zoning district of the Kane County Zoning Ordinance. In the F District, "Hospitals" (by cross-reference to the special uses in the R-1 District) and "Nursing and Convalescent Homes" are designated as special uses. Further, pursuant to Section 5.15 of the County Ordinance, the zoning officer may allow additional, unlisted uses that he or she determines is similar to, or compatible with, a listed permitted or special use. Section 8.1-2(dd) of the County Ordinance expressly allows, as special uses in the F District, "other uses similar to those permitted herein as special uses."

As noted above, we believe that the proposed alcoholism and substance abuse treatment facility would fall into the defined use of "hospital" and "nursing and convalescent home." Thus, the County would indeed have the authority to approve the proposed facility as a special use. Even if the facility is not a "hospital" or a "nursing or convalescent home," Sections 5.15 and 8.1-2(dd) would support the review of the proposal as "similar" to the recognized use categories. For these reasons, it is appropriate for the County to designate and review the proposed alcoholism and substance abuse treatment facility as a special use in the F District.

II. Special Uses under Illinois Law.

The Illinois Supreme Court has explained that, under Illinois zoning law, "a 'special use' is a type of property use that is expressly permitted within a zoning district by the controlling zoning ordinance so long as the use meets certain criteria or conditions." *City of Chicago Heights v. Living Word Outreach Full Gospel Church and Ministries, Inc.*, 196 Ill. 2d 1, 16 (2001). The identification of a use as a "special use" constitutes "a local legislative determination that the use, as such, is neither inconsistent with the public's health, safety, morals or general welfare, nor out of harmony with the town's general zoning plan." *Id.* at 17 (internal citation omitted).

This means that the County has *already* determined, in its legislative discretion, that uses like the proposed facility are allowed and contemplated in the F Farming District, so long as the specific proposal satisfies the designated standards for the special use permits. It may be that there are parcels within the F Farming District that, for reasons unique to those parcels, are *unsuitable* for uses like the proposed facility. However, in this case, given the historic use of the subject property and existing buildings as an isolated residential-like setting for at-risk individuals, as well as the extensive natural and landscaped buffers, and we are certain that the proposal meets the County standards for special uses, particularly if the proposal will not include new construction.

We understand that opponents to the proposed facility have argued that the proposal is inconsistent with the County's comprehensive land use plan. Even if this is true, it is not dispositive. Under Illinois law, comprehensive plans are advisory only: Section 5-14004 of the Illinois Counties Code, 55 ILCS 5/5-14004 expressly states as much, and numerous court opinions, analyzing parallel provisions of the Illinois Municipal Code, confirm it. *See, e.g., City of Chicago Heights*, 196 Ill. 2d at 22 ("the City's zoning ordinance is law; the comprehensive plan is not."). Notably, in *Chicago Heights*, as here, the applicable special use permit standards do *not* include "conformance with the comprehensive plan." *Id.* Thus, this attack on the proposed facility would not be persuasive under Illinois or County law.

III. LaSalle Factors and Zoning Ordinance Standards.

At public hearings held by the Village of Campton Hills in 2012, concerning a similar treatment facility for this same property, the Campton Hills Village Attorney stated his opinion that such prior proposal satisfied the *LaSalle* factors by which courts frequently review zoning disputes. At the hearing and afterward, some opponents to that proposal voiced their disagreement with the Village Attorney's analysis. We have conducted our own analysis of the evidence presented at the public hearings and of the *LaSalle* factors, and believe that the Village Attorney was correct: a court should find that the prior treatment facility proposal satisfies those factors.

The specific task of the County is to weigh the evidence against the six standards for special uses set forth in Section 4.8-2 of the Zoning Ordinance. We believe that those standards

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August 19, 2015

can be met for this new proposed use, and therefore we conclude that the new proposal can qualify for the required special use permit.

IV. County Review under the Fair Housing Act.

Alongside its review of the proposed facility under the Zoning Ordinance and State zoning law, the County must also consider its obligations under the Federal Fair Housing Act ("*FHA*").

The FHA prohibits discrimination in housing, including discrimination against "persons with disabilities." This prohibition encompasses the enforcement of zoning or other local ordinances in a manner that treats disabled persons less favorably than non-disabled persons. Under the FHA, a "disability" generally means "a physical or mental impairment which substantially limits one or more of such person's major life activities." 42 U.S.C. § 3602(h)(1). Individuals recovering from alcoholism and substance abuse, such as those that would be residing at the proposed facility, are considered to be persons with disabilities within the coverage of the FHA.

As we have advised our local government clients throughout the region, the United States Attorney's Office for the Chicago metropolitan area has taken an aggressive posture when local governments deny zoning approvals for residential facilities for persons with disabilities. In a well-known case resolved by consent decree, *United States v. Village of South Elgin* (No. 05 C 5258, N.D. Ill., December 13, 2006), which, incidentally, is located in Kane County, monetary damages and a civil penalty were paid by the Village as part of the settlement agreement for the denial of a special zoning permit, based in part on improper comments made by residents appearing at the public hearings in opposition to the proposed use. The settlement agreement also required the Village Board and other relevant village employees to receive training on the Fair Housing Act and required the village to keep and maintain records for the next three years relating to other zoning and land use requests regarding persons with disabilities. The Village was also required to submit biannual Compliance Reports, which Reports included, among other things, "the identity of each zoning, land-use, or building application or request for reasonable accommodation related to housing for disabled persons (including those for building permits, special exceptions, variances, or other uses not provided for) for which the Village had made a determination, indicating: (1) the date of the application; (2) the applicant's name; (3) the applicant's current residential street address; (4) the street address of the proposed housing; (5) the disposition of the application, including any appeals, indicating reasons for that outcome; and (6) if a vote was taken, how each member of the responsible body voted and the date of the vote." The U.S. Attorney said at the time that "this settlement should send a message to other communities that no municipality, driven by neighborhood opposition, can prohibit persons recovering from addictions from enjoying the benefits of living in the safe and supportive environment" of these types of residential facilities. In another jurisdiction, a court went so far as to reject a claim of immunity for town officials, because of their "irrational prejudice" against

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persons with disabilities. *See Pathways Psychosocial v. Town of Leonardtown*, 133 F. Supp. 2d 772 (D. Md., 2001).

Accordingly, the County will be required to make a “reasonable accommodation” with respect to the facility, because the facility will provide residential services to persons with disabilities who are protected under the Act. Notably, Section 5.3(b) of the County’s Zoning Ordinance expressly recognizes that the FHA is applicable in Kane County, and implicitly acknowledges the County’s mandate to provide such accommodations to persons with disabilities. Particularly when, as here, the proposed facility satisfies all zoning criteria for approval, it would be difficult for the County to deny the requested zoning relief without violating the FHA.

#35582401_v7

Exhibit 3

Memorandum

Date: July 18, 2015

To: Maxxam Partners, LLC

From: Andrew E. Kolb, Esq.

Re: Legal Opinion - Maxxam Partners, LLC – Proposed Alcoholism and Substance Abuse Treatment Facility

We have reviewed the Zoning Ordinance of Kane County, Illinois, and have determined that from a zoning standpoint, the property, formally known as the Glenwood School for Boys, located at 41W400 Silver Glen Road, in unincorporated Kane County (the "Site"), may be used for an alcoholism and substance abuse treatment facility under applicable zoning ordinances of Kane County, provided that a special use permit is issued by the Kane County Board. We have also concluded that the proposed use as an alcoholism and substance abuse treatment facility satisfies the standards for granting a special use at the specified location. Lastly, it is our opinion that any denial of your proposed application for a special use by Kane County raises violations of the Federal Fair Housing Act, 42 U.S.C. Sec. 3604(f) as noted below. Our analysis and findings are as follows:

Analysis

There is no individual use expressed within the Kane County zoning ordinance that explicitly references residential alcoholism and substance abuse treatment facilities as an enumerated permitted or special use. However, an alcoholism and substance abuse treatment facility is included within several other enumerated uses set forth in the ordinance. The closest defined enumerated uses in the Kane County Zoning Ordinance that are similar to the proposed residential alcoholism and substance abuse treatment facility are as follows:

- (a) "Assisted Living Facility", defined as: "A building and premises where the proprietor furnishes lodging and varying degrees of custodial care to persons who are elderly or who require assistance in daily living, but are otherwise in good health."

- (b) "Convalescent or Nursing Home," which is defined as: "A private home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders."
- (c) "Hospital or Sanitarium," defined as: "An institution open to the public in which patients or injured persons are given medical or surgical care; or for the care of contagious diseases," and;
- (d) "Nursing and Convalescent Home" (a separate term in the Zoning Ordinance) is defined as: "A building and premises for the care of sick, infirm, aged, or injured persons to be housed; or a place of rest for those who are bedfast or need considerable nursing care, but not including hospitals, assisted living facilities or group homes."

Similarity to a Hospital

It is our opinion that the defined "hospital" use describes the medically managed detoxification proposed at your alcoholism and substance abuse treatment facility. The Kane County Zoning Ordinance defines "Hospital or Sanitarium" as "an institution open to the public in which patients or injured persons are given medical or surgical care; or for the care of contagious diseases." The reference to "medical care" in the "hospital" overlaps substantially and is compatible with the proposed facility's treatment programs. We note that the proposed facility will have a licensed medical physician as its medical director, and that a licensed medical physician may see each facility patient daily, as needed. Also, the facility must have 24-hour staffing by either a registered or licensed nurse, or a certified emergency medical technician. This level of care and professional staff indicates that the facility will share many of the same characteristics as a hospital with respect to the administration of care.

Additional evidence of the similarity to a Hospital is found within relevant provisions of the Illinois Hospital Licensing Act, 210 ILCS 85 et seq. Section 3(A) of the Hospital Licensing Act provides the legal definition of a "Hospital" in the State of Illinois:

"Hospital means any institution, place, building, buildings on a campus, or agency, public or private, whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of 2 or more unrelated persons admitted for overnight stay or longer in order to obtain medical, including obstetric, psychiatric and nursing, care of illness, disease, injury, infirmity, or deformity."

Section 3(A)(5) also states that:

"The term "hospital" does not include:

(5) any person or facility required to be licensed pursuant to the Alcoholism and Other Drug Abuse and Dependency Act."

Applicant's proposed use requires licensure under the Alcoholism and Other Drug Abuse and Dependency Act (separate from the Illinois Hospital Licensing Act). Devoid of the exemption provided under Section 3(A)(5) of the Illinois Hospital Licensing Act as mentioned above, the

Applicant would have to be licensed as a "Hospital." Thus, the definitions between the treatment facility and a hospital are so similar that legislature actually had to carve out our proposed use from the Hospital Licensing Act within Section 3(A)(5) of the Illinois Hospital Licensing Act. Simply put, because the two uses are so similar, the carve-out was necessary so that alcoholism and substance abuse treatment facilities would not be burdened with any unintended hardship of being licensed as a hospital.

Additional strong and comprehensive evidence to clearly establish "similarity" between a Hospital and our proposed treatment facility is found within the expert opinion procured from Murer Consultants, Inc.

Similarity to a Nursing and Convalescent Home

Additionally, the defined term "Nursing and Convalescent Home" use best describes the residential dwelling arrangements of the residents. Thus, both uses are substantially similar and appropriate to our proposed use. The Kane County Zoning Ordinance defines Nursing and Convalescent Home as "a building and premises for the care of sick, infirm, aged, or injured persons to be housed; or a place of rest for those who are bedfast or need considerable nursing care, but not including hospitals, assisted living facilities or group homes." The patients of a residential alcoholism and substance abuse treatment facility are included in the definition of disabled and sick as defined in the zoning ordinance and will be housed in seven separate resident lodges. Each lodge is a home or dwelling unit as it contains bedrooms with private bathrooms, a kitchen and a dining/living room area. The patients' medications are administered to them in the lodges by the facility's professional staff, as would be the case in a Nursing and Convalescent Home.

Similarity Standard – Kane County Zoning Ordinance

The subject property is located in the "F" Farming zoning district of the Kane County Zoning Ordinance. In the F District, "Hospitals" (by cross-reference to the special uses in the R-1 District) and "Nursing and Convalescent Homes" are designated as special uses. Further, pursuant to Section 5.15 of the County Ordinance, the zoning officer may allow additional, unlisted uses that he or she determines is **similar to, or compatible with**, a listed permitted or special use. Section 8.1-2(dd) of the County Ordinance expressly allows, as special uses in the F District, "**other uses similar to those permitted herein as special uses.**"

As noted above, we believe that the proposed alcoholism and substance abuse treatment facility would fall into the defined use of "hospital" and "nursing and convalescent home." Thus, the County would indeed have the authority to approve the proposed facility as a special use. Even though the facility is not a "hospital" or a "nursing or convalescent home," Sections 5.15 and 8.1-2(dd) would support the review of the proposal as "similar" to the recognized use categories. For these reasons, it is appropriate for the County to designate and review the proposed alcoholism and substance abuse treatment facility as a special use in the F District.

Special Uses in the State of Illinois

Under Illinois zoning law, a "special use" is a type of property use that is expressly permitted within a zoning district by the controlling zoning ordinance so long as the use meets certain criteria and conditions. *City of Chicago Heights v Living Word Outreach Full Gospel Church and Ministries, Inc.*, 196 Ill 2d 1, 16 (2001). For example, in our case, this means that "Hospital" (or any use similar thereto) already has been determined to be allowed in the "F" Farming District, so long as the proposed use satisfies the statutory standards for the granting of a special use under the Kane County Zoning Ordinance. For the reasons set forth in the zoning petition (and accompanying Rider) and based upon the findings within the expert reports referenced in Section III of the application Rider, and given the physical characteristics of the site, the prior use and the fact that the Site is surrounded by natural areas, we believe that you satisfy the standards for a special use.

Fair Housing Act

In making its determination of whether or not to grant a special use, the County must also consider its obligations under the Federal Fair Housing Act ("FHA"), 42 U.S.C. Sec. 3604(f). Section 5.3(b) of the Kane County Zoning Ordinance states that "no section, clause or provision of this Ordinance is intended nor shall be construed as contrary to the Federal Fair Housing Act". Courts have repeatedly acknowledged the role a group living arrangement plays in the recovery of substance abusers. *See Corp. of the Episcopal Church in Utah*, 199 F. Supp.3d 1215, 1217-1218 (D. Utah 2000); *Oxford House, Inc. v. Town of Babylon*, 819 F.Supp. 1179, 1183 (E.D. NY 1993). The need for handicapped people to live in group arrangements for support or to pool caretaker staff has been described by courts as essential. *Brandt*, 82 F.3d at 174; *see also Smith & Lee Assocs, Inc.*, 102 F.3d at 795-96. Courts have repeatedly held that those suffering from alcoholism and drug addiction fall within the definition of "handicapped" thus to invoke the FHA. *Oxford House v. City of Baton Rouge, Louisiana*, 932 F.Supp.2d 683 (2013). Courts have held that municipal zoning that limits the housing opportunities for those undergoing drug and alcohol abuse treatment limits the opportunities for recovering individuals to live in residential communities and therefore violates certain provisions of the FHA.

Importantly, in our case, Kane County will be required to make a "reasonable accommodation" with respect to the facility, because the facility will provide residential treatment to persons with disabilities who are protected under the Act.

Respectfully,

Meyers & Flowers

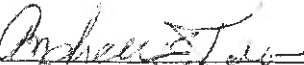
By: 
Andrew E. Kolb, Esq.
Of-Counsel

Exhibit 4

APPENDIX B¹

ZONING^{2,3}

- Art. I. Title
- Art. II. Purpose
- Art. III. Rules and Definitions
- Art. IV. Administration and Enforcement
- Art. V. General Provisions
- Art. VI. Nonconforming Buildings, Structures, and Uses
- Art. VII. Zoning Districts
- Art. VIII. Farming District
- Art. IX. Residential Districts
- Art. X. Business Districts
- Art. XI. Industrial Districts
- Art. XII. Planned Unit District
- Art. XIII. Airport Districts
- Art. XIV. Off-Street Parking
- Art. XV. Restrictions and Regulations Governing Mining of
Topsoil, Earth, Clay, Gravel, Peat, Sand and Stone
- Art. XVI. Miscellaneous Provisions
- Appendix A. Instructions

1. Editor's Note: This Appendix contains the County's Zoning Ordinance, originally adopted on December 15, 1937, as thereafter amended and readopted by Ord. No. 76-29 on March 9, 1976. The source for this Appendix is such ordinances printed in the compiled copy of the Zoning Ordinance prepared by the County, which is considered authoritative by the County. The editor has placed the term "Sec." prior to each major section's number. Inclusion of the Zoning Ordinance in appendix form was deemed advisable because of the procedures required to enact such an ordinance.

2. See also Buildings and Building Regulations, Ch. 6; Kane County Stormwater Ordinance, Ch. 9; application of flood plain regulation to Zoning Ordinance, § 9-5; Zoning Ordinance saved from repeal, § 1-3; encroachment on certain public rights of way, § 17-4; Subdivisions, Ch. 19; Trailer Coach and Mobile Home Parks, Ch. 22.

3. S.H.A. 55 ILCS 5/5-12001.

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Ord. No. 94-79, 4-12-94; Ord. No. 97-240, 9-9-97)

ARTICLE V. GENERAL PROVISIONS

Sec. 5.1. Interpretations, purposes and conflicts.

In interpreting and applying the provisions of this Ordinance, they shall be held to being the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.

Due allowance shall be made for existing conditions, the conservation of property values and the directions of building development to the best interests of the entire County of Kane.

It is not intended by this Ordinance to interfere with or abrogate or annul any ordinance, resolution, rules, regulations or permits, previously adopted or issued and not in conflict with any of the provisions of this Ordinance relative to the use of buildings, structures or land, nor is it intended by this Ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that wherever this Ordinance imposes a greater restriction upon the use of buildings, structures, land, or requires greater setback, then the provisions of this Ordinance shall control.

Sec. 5.2. Conflicting ordinances.

All ordinances or resolutions or parts thereof in conflict with the provisions herein set forth are hereby repealed insofar as they conflict.

Sec. 5.3. Validity.

- a. Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- b. No section, clause or provision of this Ordinance is intended, nor shall be construed, to be contrary to the Federal Fair Housing Act as amended. (42 USC 3601 et seq.), including but not limited to those provisions contained in the Federal Fair Housing Act which may apply to "group homes" as defined herein. (Ord. No. 90-176, 8-14-90)

Sec. 5.4. Scope of regulations.

5.4-1 Things regulated.

Hereafter outside the limits of cities, villages and incorporated towns, the erection of any new building or structure, or the relocation, enlargement or structural alteration of any existing building or structure, or any change in use or new or additional use made of any tract of land or existing building or structure:

- a. Shall be for only those principal uses as permitted in the district in which such building, structure or land is located, including any use or activity customarily incidental or accessory thereto unless otherwise restricted or prohibited;
- b. Shall conform to the provisions of this Ordinance concerning population density;
- c. Shall provide and preserve the required setback distance from adjoining roads or streets, the required side-yards, and the required parking space;
- d. Shall observe the regulations of the Illinois Department of Transportation, Division of Highways, concerning "freeways"; and the Kane County Division of Transportation Access Control Regulations;

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e. Shall be done only after obtaining a zoning permit, all as specified in this Ordinance.

5.4-2 *Jurisdiction limited.*

This Ordinance shall not apply to territory within the limits of cities, incorporated towns and incorporated villages.

5.4-3 *Public utility exemption.*

As required by statute, the type or location of any poles, towers, wires, cables, conduits, vaults, laterals or any similar distributing equipment of a public utility are exempt from the requirements of this Ordinance with the following exception:

55ILCS5/5.12001.1. gives counties the authority to regulate certain specified facilities of a telecommunications carrier. A "telecommunications carrier" is defined in the Public Utilities Act as of January, 1, 1997. A "facility" means that part of the signal distribution system used or operated by a telecommunications carrier under a license from the FCC consisting of a combination of improvements and equipment including (i) one or more antennas; (ii) a supporting structure (tower) and the hardware by which antennas are attached; (iii) equipment housing; and (iv) ancillary equipment such as signal transmission cables and miscellaneous hardware.

The following restrictions shall apply to a facility of a telecommunications carrier unless a variance is obtained in accordance with Section 4.4 of this Ordinance.

1. A facility is not permitted in residentially zoned lots that are less than two (2) acres in size.
2. Height:
 1. Residential Zoned District - The height of the facility shall not exceed seventy-five (75) feet.
 2. Non-Residential Zoned District - The height of the facility shall not exceed two hundred (200) feet.
3. Setbacks:
 1. Residential Zoning District - The setback distance to the nearest residentially zoned lot shall be at least fifty (50) percent of the height of the tower.
 2. Non-Residential Zoning District - The setback distance to the nearest principal residential building shall be at least equal to the height of the tower.
 3. Any Zoning District - The setback distance of a facility shall be at least ten (10) feet to the side and rear lot lines, thirty five (35) feet to the road right-of-way line, and fifty (50) feet to any limited access highway right-of-way line.

In designing a facility, a telecommunications carrier shall comply with the following guidelines:

1. No building or tower that is part of a facility shall encroach onto any recorded easement prohibiting the encroachment unless the grantees of the easement have given their approval.
2. Lighting shall be installed for security and safety purposes only. Except with respect to lighting required by the FCC or FAA, all lighting shall be shielded so that spillover lighting onto adjacent property shall not exceed 0.5 lumens per square foot.
3. No facility shall encroach onto an existing septic field or expansion area.
4. No facility shall be located in a special flood hazard area or wetland without meeting the legal

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requirements for those lands.

5. Existing trees more than three (3) inches in diameter shall be preserved if reasonably feasible during construction. If any tree more than three (3) inches in diameter is removed during construction, a tree three (3) inches or more in diameter of the same or similar species shall be planted as a replacement. Tree diameter shall be measured at a point three (3) feet above ground.
6. If any elevation of a facility faces an existing, adjoining residential use, low maintenance landscaping shall be provided on or near the facility lot to provide at least partial screening of the facility. Landscaping shall be done in accordance with Section 14.1-2,d.
7. Fencing shall be installed around the facility.
8. Any building that is part of a facility located adjacent to a residentially zoned lot shall be designed with exterior material and colors that are reasonably compatible with the residential character of the area.

5.4-4 Agricultural exemption.

Buildings, structures or land used or to be used principally for "agriculture" as herein defined, are exempt from the requirements of this ordinance, except that such buildings or structures must comply with applicable setback requirements.

5.4-5 Underground installation exemption.

Pipe lines and other underground installations, to the extent that the same are completely buried beneath the surface of the soil, are exempt from the requirements of this Ordinance, provided that any incidental or associated structures, installations or equipment, except markers, used in connection with such pipe lines or other underground installations, and which protrude or are extended above the surface of the soil, shall to the extent of such protrusion or extension be subject to all of the applicable provisions thereof.

5.4-6 Small Tower Mounted – Wind Energy Turbine (STM-WET) exemption

Illinois State Statute, 55 ILCS 5/5-12020, gives counties the authority to regulate the siting of electric-generating wind devices.

STM-WETs shall be permitted in all zoning districts and subject to the following general provisions, unless a variance is obtained in accordance with Section 4.4 of this Ordinance:

1. **Accessory Use.** STM-WETs shall only be permitted as an accessory use to an existing principal building, but will not add to the number of detached accessory structures as limited in Section 5.5.
2. **Building Permit.** A building permit must be submitted and approved prior to construction, installation, relocation, or modification. The Owner/Applicant or Operator must apply for and receive the building permit.
3. **Lot Size.** STM-WETs shall not be permitted on any parcel that is less than 2 acres.
4. **Tower Height.**
 - a. **Residential Uses.** Tower Heights up to 76 feet shall be allowed on residentially zoned parcels between 2 - 5 acres.
 - b. **Non-Residential Uses.** So long as the Tower Height meets setback requirements, there shall be no specific height limitation, except as imposed by Federal Aviation Administration (FAA regulations).

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5. Setbacks applying to all districts:
 - a. The base of the tower shall be setback 1.1 times the Tower Height from all property lines.
 - b. The base of the tower shall be setback 1.1 times the Tower Height from any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road.
 - c. The base of the tower shall be setback 1.1 times the Tower Height from any overhead utility lines, unless written permission is granted by the affected utility;
 - d. Ancillary parts of the turbine system, including guy wires, shall follow the setback in the subject zoning district.
6. Lighting. STM-WETs shall not be artificially illuminated unless required by the FAA.
7. Visual Appearance.
 - a. STM-WETs shall be finished in a single non-reflective, unobtrusive color, such as off-white, light gray, or other neutral color that conforms to the surrounding natural environment.
 - b. The appearance of the STM-WET and all accessory structures shall be maintained throughout the life of the unit.
8. Electrical Wires. All electrical wires associated with an STM-WET, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
9. Sound. Any nuisance noise from a STM-WET shall comply with Chapter 15, Section 3.4 *Harsh, Prolonged or Unusual Noise*, of the County Code, Nuisances & Property Maintenance.
10. Access. Public access shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable methods.
11. Signs. All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification, appropriate warning signs, or owner identification on a tower, wind energy system, building, or other structure associated with a small wind energy turbine visible from any public road shall be prohibited.
12. Soil Conditions. A soil analysis is recommended and may be required by the Building Officer as part of the building permit application and inspection process to confirm that the soils meet the minimum bearing capacity assumed by the structural design of the tower and the foundation.
13. Performance and Safety Standards. The manufacturer and model of the proposed small wind energy system must be on an approved list by the California Energy Commission or the New York State Energy Research and Development Authority until the Small Wind Certification Council becomes mainstream. The Zoning Enforcing Officer has the ability to review other wind energy system models to determine their adequate performance and safety.
14. Quantity.
 - a. Residential Uses. One (1) STM-WET is allowed per zoning lot.
 - b. Non-Residential Uses. Five (5) STM-WETs are allowed per zoning lot.

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15. **Utility Notification and Interconnection.** No STM-WET shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
16. **Abandonment:**
 - a. A STM-WET that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Zoning Enforcing Officer may issue a Notice of Abandonment to the owner of a STM-WET that is deemed to have been abandoned.
 - b. If the STM-WET is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the Owner's sole expense within 3 months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Zoning Enforcing Officer shall enforce this as a violation of the Kane County Zoning Ordinance subject to Administrative Adjudication Hearings.
17. **Violation.** It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with Section 5.4-6.
18. **Review Fee.** Flat fee, two hundred and fifty dollars (\$250.00) per tower.

5.4-7 Small Structure Mounted Wind Energy Turbine (SSM-WET) exemption

55 ILCS 5/5-12020. Gives counties the authority to regulate the siting of electric-generating wind devices.

SSM-WETs shall be permitted in all zoning districts and subject to the following general provisions, unless a variance is obtained in accordance with Section 4.4 of this Ordinance:

1. **Accessory Use.** A SSM-WET shall only be permitted as an accessory use to an existing principal building, but will not add to the number of detached accessory structures as limited in Section 5.5.
2. **Mounting.** All rooftop wind energy systems shall be controlled in a manner consistent with the Building Code and as approved by the Zoning Enforcing Officer.
3. **Height.** The maximum height of a SSM-WET shall be fifteen (15) feet above the highest point of the roofline of the structure it is mounted upon.
4. **Diameter.** The maximum diameter of the blades or rotor shall be ten (10) feet.
5. **Lighting.** SSM-WETs shall not be artificially illuminated unless required by the FAA.
6. **Visual Appearance.**
 - a. SSM-WETs shall be finished in a single non-reflective, unobtrusive color, such as off-white, light gray, or other neutral color that conforms to the surrounding natural environment.
 - b. The appearance of SSM-WETs and all accessory structures shall be maintained throughout the life of the unit.
7. **Sound.** Any nuisance noise from SSM-WETs shall comply with Chapter 15, Section 3.4 *Harsh, Prolonged or Unusual Noise*, of the County Code, Nuisances & Property Maintenance.
8. **Signs.** All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or

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owner identification, appropriate warning signs, or owner identification on a tower, wind energy system, building, or other structure associated with a small wind energy turbine visible from any public road shall be prohibited.

9. **Performance and Safety Standards.** The manufacturer and model of the proposed small wind energy system must be on an approved list by the California Energy Commission or the New York State Energy Research and Development Authority until the Small Wind Certification Council becomes mainstream. The Zoning Enforcing Officer has the ability to review other wind energy system models to determine their adequate performance and safety.
10. **Quantity.**
 - a. **Residential Uses.** Only five (5) rooftop wind energy systems are allowed per zoning lot.
 - b. **Non-Residential Uses.** The number of rooftop wind energy systems shall not be restricted.
11. **Structure Mounting.** A structural analysis of the existing structure is recommended and may be required by the Building Officer as part of the building permit application and inspection process to confirm that the structure is capable of supporting the minimum loads assumed by the structural design of the turbine and mounting system.
12. **Utility Notification and Interconnection.** No SSM-WET shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
13. **Review Fee.** Flat fee, one hundred dollars (\$100.00) per structure mounted turbine.
(Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92; Ord. No. 98-45, 4-14-98; Ord. No. 10-140, 5-11-10)

Sec. 5.5. Number of buildings on a recorded or zoning lot in residential districts.

Except in the case of a planned unit development, not more than one residential building shall be located on a recorded zoning lot, and not more than two (2) detached structures accessory to a dwelling shall be located on a recorded or zoning lot. However, two (2) or more accessory or incidental structures to a dwelling which are deemed to be of unique historical value as described in the Preservation Ordinance No. 88-99 are permitted. (Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92)

Sec. 5.6. Minimum lot size.

Every residential building hereafter erected on a lot or parcel of land created subsequent to the effective date of this Ordinance shall provide a lot or parcel of land in accordance with the lot size requirement of the district within which it is located. (Ord. No. 78-79, § 5, 6-13-78; Ord. No. 79-229, § 2, 12-11-79)

Sec. 5.7. Existing vacant substandard lots.

In any residential or estate district, a one-family detached dwelling and its accessory structures may be erected on any vacant legal lot or parcel subdivided and recorded before December 11, 1979, provided that the lot area, lot width, and yard requirements are not less than fifty percent (50%) of the minimums required by this Ordinance and that all other applicable zoning, wastewater disposal, and building ordinance requirements are complied with. (Ord. No. 82-66, 5-11-82)

Sec. 5.8. Contiguous parcels.

When two (2) or more parcels of land, each of which lacks adequate area and dimension to qualify for a

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permitted use under the requirements of the use district in which they are located or the above provision, are contiguous and are held in one ownership, at the time of or subsequent to the adoption of this Ordinance or amendment, they shall be used as one zoning lot for such use. (Ord. No. 79-229, § 3, 12-11-79)

Sec. 5.9. Accessory buildings.

5.9-1 Time of construction.

No accessory or incidental building or structure may be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

5.9-2 Percentage of required yard occupied.

No detached accessory building or buildings shall occupy more than twenty five percent (25%) of the area of a required yard for a principal building.

5.9-3 On reversed corner lots.

On a reversed corner lot in a residential district, no accessory building or portion thereof shall be located within five feet (5') of any part of a rear lot line which coincides with the side lot line or portion thereof of property in any residential district.

No accessory building shall be erected in or encroach upon the required side yard of a corner lot which is adjacent to the street, nor upon the required side yard of a reversed corner lot which is adjacent to the street.

5.9-4 Separation between buildings.

Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than five feet (5').

5.9-5 Maximum size of residential accessory buildings.

On lots of two (2) acres or less in size, none of the detached accessory buildings or structures shall exceed a combined total of nine hundred (900) square feet in total floor area under roof.

On lots greater than two (2) acres in size but less than five (5) acres in size, none of the detached buildings or structures shall exceed a combined total of one thousand eight hundred (1,800) square feet in total floor area under roof. (Ord. No. 79-229, § 3, 12-11-79; Ord. No. 92-187, 9-8-92; Ord. No. 95-60, 3-14-95)

Sec. 5.10. Bulk regulations.

5.10-1 Continued conformity with bulk regulations.

The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. In the event of a reduction of the size of a parcel due to the sale of a portion of the property to a government entity for public benefit, which results in either a loss of a grandfathered status, a size smaller than the minimum required in the parcel's current zoning district or a parcel smaller than was approved in the parcel's subdivision a rezoning would be required. The Zoning Enforcing Officer shall have the discretion to determine that in the event an existing home was damaged resulting in a loss more than 50% of its market value and prior to any rezoning being granted, that a permit to rebuild could be obtained, subject to all current and applicable regulations. Rezoning of the parcel would be encouraged, with the County waiving the rezoning application fee. Furthermore, no legally required yards, other open space, or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

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5.10-2 Division of zoning lots.

No lot shall hereafter be divided into two (2) or more lots and no portion of any lot shall be sold, unless all lots resulting from each such division or sale shall conform with all the applicable bulk regulations of the zoning district in which the property is located.

5.10-3 Location of required open space.

All yards and other open spaces allocated to a building or dwelling group shall be located on the same lot as such building or dwelling group.

5.10-4 Required yards, existing buildings.

No yards, now or hereafter provided for a building existing on the effective date of this Ordinance, shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this Ordinance for equivalent new construction.

5.10-5 Permitted obstructions in required yards.

The following shall not be considered to be obstructions when located in the required yards specified:

- a. In All Yards. Decks and patios not over three feet (3') above the average level of the adjoining ground, but not including a permanently roofed-over deck, patio, or porch; steps four feet (4') or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley; chimneys projecting twenty four inches (24") or less into the yard; approved free-standing signs; arbors and trellises; flagpoles; window unit air-conditioners projecting not more than eighteen inches (18") into the required yard; overhanging eaves, gutters and awnings projecting three feet (3') or less into the yard.
- b. In Front Yards. One story bay windows projecting three feet (3') or less into the yards.
- c. In Rear Yards. Open off-street parking spaces; balconies; breezeways and open porches; one story bay windows projecting three feet (3') or less into the yard.

Permitted obstructions and detached accessory structures shall not, in the aggregate, occupy more than twenty five percent (25%) of any required yard. (Ord. No. 79-229, § 3, 12-11-79; Ord. No. 97-240, 9-9-97; Ord No. 12-295, 10-9-12)

Sec. 5.11. Existing special uses.

Where a use is classified as a special use under this Ordinance, and exists as a special use at the date of the adoption of this Ordinance, it shall be considered to be a legal special use. (Ord. No. 79-229, § 3, 12-11-79)

Sec. 5.12. Regulations along limited access highways.

Along all limited access highways, the setback of all buildings and structures shall be not less than fifty feet (50') from the existing or recorded proposed right-of-way line. (Ord. No. 79-229, § 3, 12-11-79)

Sec. 5.13. Public use airports, restricted landing fields, private landing strips and heliports.

The provisions of this Ordinance are in addition to the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics, which rules and regulations are the minimum standards for purposes of this ordinance. In the event of conflict between the provisions of this ordinance and the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics, the more restrictive of the two (2) shall prevail.

APPENDIX B-ZONING

The definitions of the words and phrases used herein shall be the same as the definitions of like words and phrases contained in the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics, unless otherwise defined herein.

Restricted landing fields, private landing strips and heliports, as defined in the provisions of this ordinance are included in the term "Restricted Landing Areas" as used in the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics, and also within that term as it is used in this section.

Public Use Airports as defined in the provisions of this ordinance are included in the term "Commercial Airports" as used in the rules and regulations of the Illinois Department of Transportation, Division of Aeronautics.

Public use airports, restricted landing fields, private landing strips and heliports shall be subject to the regulations and restrictions in this Article V, Section 5.12 and applicable succeeding sections of this ordinance and subsequent amendments thereto.

5.13-1. Restrictions on Location.

No public use airport, restricted landing field, private landing strip, heliport, or any other facility designated as a restricted landing area of any kind in the rules and regulations of the Department of Transportation, Division of Aeronautics, or any part thereof, shall be located:

- a. Within one and one-half ($1\frac{1}{2}$) miles of any incorporated city or village or any unincorporated area within any circle drawn from any point on the subject property with a radius of two thousand (2,000) feet that contains more than two hundred (200) dwelling units.
- b. Within five (5) miles of the boundary of any public use airport as defined herein.
- c. In a location which is inconsistent with the plans, policies, and ordinances of Kane County which are now and may from time to time be in effect.

5.13-2 Distance Between Restricted Landing Areas.

The minimum distance between restricted landing areas shall be not less than three (3) miles measured from the nearest points of the landing strips, and when approach planes are located in one extended straight line, the distance shall be not less than four (4) miles.

5.13-3 Distance from Highway or Railroad Right-of-Way.

Runways shall not be located within one thousand (1,000) feet of any highway, street or railroad right-of-way if the runway is perpendicular to such right-of-way and shall not be located within five hundred (500) feet of such right-of-way if the landing strip is parallel with such right-of-way.

5.13-4 Obstructions.

Any obstructions, such as power lines, trees and buildings, shall be cleared from the landing area by a five (5) percent approach plane or five (5) feet in height to every one hundred (100) feet distance measured from the level of the runway.

5.13-5 Distance Between Property Lines and Blast Areas.

No run up area or blast area shall be located within a distance of two hundred (200) feet from any residence or property line except a residence or property line within the boundaries of an A-1 or A-2 District or a residence adjacent to and owned by the state licensee of a private landing strip.

APPENDIX B-ZONING

5.13-6 Dustless Surface.

Every land area used by any aircraft under its own power shall be provided with a dustless surface, as defined herein. (Ord. No. 80-37, § 3, 3-13-80)

Sec. 5.14. Development of air rights.

The development of air rights above land located in any zoning district and utilized for public or private use, shall be permitted subject to all the requirements of the zoning district within which such development is located. However, plans for all such air rights development shall be submitted to the Zoning Enforcing Officer for recommendations as to the appropriateness of the development in regard to the location of structures, traffic control, placement of utilities, and all other matters related to the physical development of said air rights. Such recommendations shall be forwarded to, and shall be subject to the approval of, the County Board. (Ord. No. 79-229, § 3, 12-11-79)

Sec. 5.15. Interpretation of use lists.

The Enforcing Officer may allow land-uses which, though not contained by name in a zoning district list of permitted or special uses, are deemed to be similar in nature and clearly compatible with the listed uses. However, such non-listed uses shall not be approved until the application for such use has been reviewed by the County Development Department staff and a favorable report has been received by the Enforcing Officer. The non-listed uses which are approved shall be added to the appropriate use list at the time of periodic updating and revision. (Ord. No. 79-229, § 3, 12-11-79)

ARTICLE VI. NONCONFORMING BUILDINGS, STRUCTURES, AND USES

Sec. 6.1. Purpose.

This ordinance establishes separate districts, each of which is an appropriate area for the location of the uses which are permitted in that district. It is necessary and consistent with the establishment of those districts that those nonconforming buildings, structures, and uses which substantially and adversely affect the orderly development and taxable value of other property in the district not be permitted to continue without restriction.

The purpose of this Article (VI) is to provide for the regulation of nonconforming buildings, structures, and uses and to specify those circumstances and conditions under which those nonconforming buildings, structures, and uses shall be permitted to continue.

Sec. 6.2. Authority to continue nonconforming buildings, structures, and uses.

Any nonconforming building, structure, or use which existed lawfully at the time of the adoption of this ordinance and which remains nonconforming, and any such building, structure, or use which shall become nonconforming upon the adoption of this ordinance, or of any subsequent amendments thereto, may be continued subject to the regulations which follow.

Sec. 6.3. Restrictions on nonconforming buildings, structures, and uses.

Any lawfully existing building or structure which does not conform to the regulations of the district in which it is located may be continued, subject to the provisions of this Article VI, Section 6.3.

6.3-1 Repairs and Alterations.

So long as a building, structure, advertising sign, or business sign is used or is eligible for use in a nonconforming manner, only ordinary repairs and maintenance, including replacement of roof covering and veneering of outer walls, shall be permitted. In no case shall such repairs include structural alterations, or other

Exhibit 5



COMMERCIAL USE
BUSINESS
& RESIDENTIAL

A Professional Corporation
140 South Dearborn Street, Suite 600
Chicago, IL 60603
www.anceglink.com

Julie A. Tappendorf
jtappendorf@anceglink.com
(P) 312.604.9182
(F) 312.782.0943

October 23, 2015

Via Email: vankerkhoffmark@co.kane.il.us

Mark VanKerkhoff, Director & Zoning Enforcing Officer
Kane County Development and Community Services Dept.
719 S. Batavia Ave., Building A
Geneva, IL 60134

Re: Maxxam Partners, LLC – Special Use Permit Petition No. 4364

Dear Mr. VanKerkhoff:

I serve as the Village Attorney for Campton Hills. The Village Board has asked that I send a letter to the County regarding zoning petition 4364. We ask that you include this letter as part of the application file and the record of the County’s hearing on this petition.

According to the application filed by Maxxam Partners, LLC (“*Maxxam*”) in late August, Maxxam is requesting that the County approve a special use permit to allow it to use and operate a residential substance abuse treatment facility (“*Facility*”) on property located at 41W400 Silver Glen Road in unincorporated Kane County and zoned in the F Farming District (“*Property*”).

As you know, the Facility is not listed as a permitted or special use in the F District. Consequently, Maxxam has applied for a special use permit for the Facility under section 25-8-1-2(DD). That provision states as follows:

DD. Other uses similar to those permitted herein as special uses.

Section 25-8-1-2(DD) does not identify who is responsible for determining what uses are “similar” to the listed special uses or how “similar” uses are to be determined. However, section 25-5-15 of the Zoning Ordinance does:

25-5-15: INTERPRETATION OF USE LISTS:

The enforcing officer may allow land uses which, though not contained by name in a zoning district list of permitted or special uses, are deemed to be similar in nature and clearly compatible with the listed uses. However, such nonlisted uses shall not be approved until the application for such use has been reviewed by the county development department staff and a favorable report has been received by the enforcing officer. The nonlisted uses which are approved shall be added to the appropriate use list at the time of periodic updating and revision.

According to this section, before a use can be deemed “similar” to the listed special uses in the F District, 3 things must happen. First, the county development department staff must review the application for the proposed use. Second, staff must transmit a favorable report to the enforcing officer. Third, only after receipt of the favorable report from staff can the enforcing officer approve adding the nonlisted “similar” use to the special use list in the respective zoning district (in this case, the F-District). Thus, until the enforcing officer has approved the Facility as a

ANCEL, GLINK, DIAMOND, BUSH, DiCIANNI & KRAFTHEFER, P.C.
October 23, 2015
Page 2

nonlisted "similar" use, Maxxam's petition for approval of a special use for the Facility cannot and should not be scheduled for hearing. The Facility is simply not an authorized special use in the F-District because you (as the enforcing officer) have not yet approved it as a similar use.

At our meeting on October 7, 2015, the Village asked if you (the enforcing officer) had approved the proposed Facility as a "similar" use under section 25-8-1-2(DD). You responded that no such determination had been made by you or County staff. Rather, you stated that County staff was simply forwarding the petition to the ZBA, and that the ZBA would be responsible for determining whether the use was a "similar" use.¹

However, the County's Zoning Ordinance places the responsibility for approving a "similar" use with you (the enforcing officer) not the ZBA. That approval can only happen after a favorable report has been forwarded to you (the enforcing officer) from community development staff. By transmitting Maxxam's petition to the ZBA without first approving the Facility as a "similar" use, the County has violated its own ordinance procedures.

It is the Village's position that the County violated its own Zoning Ordinance in scheduling Maxxam's special use petition for a public hearing without first going through the proper procedure for approving the addition of a nonlisted "similar" special use to the F District regulations. As a result, the ZBA has no authority to hear Maxxam's petition for a special use that (i) is not listed in the Zoning Ordinance as a special use or (ii) has not yet been approved as a "similar" nonlisted use pursuant to 25-5-15. By skipping a necessary step in the process, the County calls into question all future proceedings on Maxxam's petition and exposes the County to the risk of a procedural challenge to any future decision on that petition.²

We would also like to express our disappointment that County staff did not contact the Village when it scheduled Maxxam's petition for a meeting on November 17, 2015. At our meeting on October 7th, we were assured that you would keep the Village informed of future proceedings. Instead, we had to learn about the meeting while researching another County petition.

If you have any questions about this letter, please contact me.

Sincerely,



Julie A. Tappendorf

cc: Village President and Board of Trustees, Village of Campton Hills
Village Administrator, Village of Campton Hills
4845-4808-1193, v. 1

¹ If your position has changed, and you have since issued the required approval, please forward a copy of that determination to me.

² It is not clear why County staff skipped this necessary step in the process. Maybe County staff believes that if it does not put its approval or determination in writing, it can somehow avoid a formal appeal of that decision, as authorized by 25-4-2-3?

Exhibit 6

VILLAGE OF CAMPTON HILLS

A RESOLUTION OPPOSING MAXXAM PARTNERS, LLC
PETITION TO KANE COUNTY FOR A SPECIAL USE PERMIT

WHEREAS, in August of 2015, Maxxam Partners, LLC ("*Maxxam*") filed Petition No. 4364 ("*Maxxam Petition*") requesting that the County approve a special use permit to allow it to use and operate a private-pay alcoholism and substance abuse treatment facility ("*Facility*") on property located at 41W400 Silver Glen Road in unincorporated Kane County and zoned in the F Farming District ("*Property*"); and

WHEREAS, the County has scheduled Maxxam's petition for a zoning board of appeals ("*ZBA*") hearing on November 17, 2015, at 7:00 p.m.; and

WHEREAS, the County sent a notice to the Village of Campton Hills regarding the proposed hearing on Maxxam's petition, which notice was dated October 15, 2015; and

WHEREAS, in its notice, the County provided the Village with 30 days to provide comments to the County on the Maxxam Petition; and

WHEREAS, however, the Village did not receive the County's notice until October 26, 2015, providing little time to the Village Board to carefully review Maxxam's request for relief and provide comments on the Maxxam Petition, there being only one Village Board meeting before the ZBA hearing; and

WHEREAS, notwithstanding the late notice, the Village Board desires to adopt and present to the County a formal resolution of the Village Board to oppose the Maxxam Petition based upon (i) the County's failure to follow its own Zoning Ordinance procedures for approving a "similar" use, (ii) Maxxam filing an application for the wrong form of zoning relief, and (iii) Maxxam's proposed Facility not complying with the standards set forth in the County Zoning Ordinance for granting a special use permit, as discussed more fully in this Resolution; and

WHEREAS, because the Facility is not listed as a permitted or special use in the F District, Maxxam applied for a special use permit for the Facility under section 25-8-1-2(DD) which states as follows:

DD. Other uses similar to those permitted herein as special uses.

WHEREAS, Section 25-8-1-2(DD) does not identify who is responsible for determining what uses are "similar" to the listed special uses or how "similar" uses are to be determined; and

WHEREAS, however, section 25-5-15 of the Zoning Ordinance does identify the person responsible for making such determination:

25-5-15: INTERPRETATION OF USE LISTS:

The enforcing officer may allow land uses which, though not contained by name in a zoning district list of permitted or special uses, are deemed to be similar in nature and clearly compatible with the listed uses. However, such nonlisted uses shall not be approved until the application for such use has been reviewed by the county development department staff and a favorable report has been received by the enforcing officer. The nonlisted uses which are approved shall be added to the appropriate use list at the time of periodic updating and revision.

WHEREAS, according to section 25-5-15, before a use can be deemed "similar" to the listed special uses in the F District, the following three things must happen:

1. County development department staff must review the application for the proposed use.
2. County staff must transmit a favorable report to the enforcing officer.
3. After receipt of the favorable report from staff, the enforcing officer must approve adding the nonlisted "similar" use to the special use list in the respective zoning district (in this case, the F-District); and

WHEREAS, thus, until the enforcing officer has approved the Facility as a nonlisted "similar" use, Maxxam's petition for approval of a special use for the Facility cannot and should not be scheduled for hearing because the Facility is simply not an authorized special use in the F-District until the enforcing officer has approved it as a similar use; and

WHEREAS, it is the Village's understanding through conversations with the Director of the Kane County Development and Community Services Department (who also serves as the County's enforcing officer), that no such determination has been made and the ZBA would be responsible for determining whether the Facility was a "similar" use to listed special uses in the F District; and

WHEREAS, however, according to the County's own Zoning Ordinance, the responsibility for approving a "similar" use is the enforcing officer's not the ZBA; and

WHEREAS, it is the Village's position that the County violated its own Zoning Ordinance in scheduling Maxxam's special use petition for a public hearing without first going through the proper procedure for approving the addition of a nonlisted "similar" special use to the F District regulations; and

WHEREAS, as a result, the ZBA has no authority to hear Maxxam's petition for a special use that (i) is not listed in the Zoning Ordinance as a special use or (ii) has not yet been approved as a "similar" nonlisted use pursuant to section 25-5-15; and

WHEREAS, by skipping a necessary step in the process, the County calls into question all future proceedings on Maxxam's petition and exposes the County to the risk of a procedural challenge to any future decision on that petition; and

WHEREAS, even if the County had followed its Zoning Ordinance and the enforcing officer had made the determination that the Facility was a “similar” use to one of the listed special use permits authorized in the F District prior to scheduling this for a ZBA hearing, it is the Village’s position that this determination (had it happened) would not be consistent with Illinois zoning law because the proposed Facility is not a “similar” use to any of the listed special uses in the F District (including a hospital); and

WHEREAS, as an initial matter, it is not clear *what* listed special use the Facility would be deemed similar to since County staff has not made the required determination; and

WHEREAS, the Maxxam Petition suggests that the proposed Facility is similar to a hospital or a nursing and convalescent home; however, as discussed above, it is County staff that must make the determination as to whether the Facility is “similar” to a listed special use in the F District, not Maxxam; and

WHEREAS, in any event, an alcoholism and substance abuse treatment facility is not similar to a hospital or a nursing and convalescent home for a number of reasons, including the following:

1. The definition of a “hospital” under the County’s Zoning Ordinance does not contemplate the type of residency proposed by the Maxxam Facility.
2. Alcoholism and substance abuse treatment facilities, hospitals, and nursing homes are all regulated under completely different statutes under Illinois law.
3. Illinois courts have acknowledged that nursing homes are distinct from substance abuse facilities. *See Patella v. Leyden Family Service & Mental Health Center*, 79 Ill.2d 493 (1980).
4. Nursing homes are subject to different reporting and compliance requirements under Illinois law, including special testing and licensure requirements.

WHEREAS, because the Facility is not a “similar” use to any of the listed special uses in the F District (including hospitals or nursing and convalescent homes), Maxxam should have applied for a text amendment to add an alcoholism and substance abuse treatment facility as an authorized special use permit in the F District; and

WHEREAS, even if Maxxam had applied for a text amendment to add an alcoholism and substance abuse treatment facility as an authorized special use permit in the F District, it is the Village’s position that this proposed use is not consistent with the underlying purpose and intent of an agricultural zoning district such as the F District nor is the use consistent with Kane County’s 2040 Plan, which would be more appropriately addressed through a rezoning of the Property to a more appropriate zoning district; and

WHEREAS, if Maxxam had applied for the appropriate form of relief, the Village and other taxing bodies and neighboring property owners would have had additional legal rights to object to the zoning amendment (including the right to protest a zoning amendment under section 25-4-7-3 of the Zoning Ordinance and triggering a super majority vote of the County Board to

approve the requested relief) that are not available because Maxxam did not file for the appropriate zoning relief for its proposed Facility; and

WHEREAS, even if the County had followed its own ordinances and Maxxam had applied for the appropriate zoning relief, it is the Village's position that the proposed Facility simply does not meet the standards for granting a special use permit as set forth in Section 25-4-8-2 of the County's Zoning Ordinance; and

WHEREAS, specifically the proposed Facility does not meet the standard that provides that the establishment, maintenance or operation of the special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare; and

WHEREAS, further, the proposed Facility does not meet the standard that it will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood; and

WHEREAS, in addition, the proposed Facility does not meet the standard that it will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF CAMPTON HILLS, KANE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. The recitals listed above are incorporated into this Resolution as if fully set forth in this Section 1.

SECTION 2. The Village Board opposes the Maxxam Petition because the County did not follow its own Zoning Ordinance in processing the application and scheduling it for a public hearing. Specifically, the Zoning Enforcing Officer did not approve adding an alcoholism and substance abuse treatment facility as a special use in the F District, a prerequisite to scheduling and holding a public hearing on a "similar" use application. Because the procedure involved in processing the Maxxam Petition is flawed, the ZBA has no authority to hear or make a recommendation on Maxxam's request for a special use permit for its proposed Facility.

SECTION 3. The Village Board also opposes the Maxxam Petition because Maxxam failed to apply for the appropriate relief in the form of a text amendment to add the Facility as an authorized special use in the F-Farming District. Because a private pay-alcoholism and substance treatment facility is not a "similar" use to any listed special use in the F District, is not consistent with the underlying purpose and intent of an agricultural zoning district such as the F District, and is inconsistent with Kane County's 2040 Plan, Maxxam's request for approval of the Facility would be more properly addressed through a rezoning of the Property to a more appropriate zoning district. As a result, the Maxxam Petition should not move forward to the ZBA for hearing or recommendation, as the requested relief is not appropriate to authorize the proposed Facility.

SECTION 4. Even if the County had followed its Zoning Ordinance in processing the Maxxam Petition and Maxxam had applied for the appropriate zoning relief, the Village Board opposes the Maxxam Petition because the Petition for the proposed Facility does not meet the special use permit standards set forth in Section 25-4-8-2 of the County Zoning Ordinance. The ZBA should find that the proposed Facility does not meet all of the required standards and recommend that the County Board deny the requested special use, and the County Board should accept the ZBA's recommendation and deny Maxxam's application for a special use permit for the Facility.

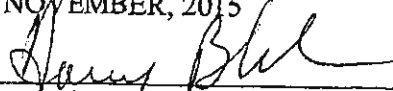
SECTION 5. All ordinances, resolutions, and other documents in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 6. This Resolution shall be in full force and effect from after its passage and approval in the manner provided by law.

Passed this 3rd day of November, 2015 by roll call vote:

	AYES	NAYES	ABSENT	ABSTAIN
Trustee Laura Andersen	X	_____	_____	_____
Trustee Susan George	X	_____	_____	_____
Trustee James McKelvie	X	_____	_____	_____
Trustee Mike Millette	X	_____	_____	_____
Trustee Michael O'Dwyer	X	_____	_____	_____
Trustee Michael Tyrrell	X	_____	_____	_____
President Harry Blecker	_____	_____	_____	_____

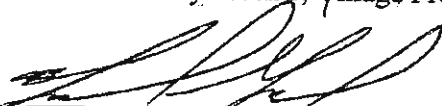
APPROVED THIS 3RD DAY OF NOVEMBER, 2015



 Harry Blecker, Village President

(SEAL)

ATTEST:



 Nicholas Girka, Village Clerk

Exhibit 7

COUNTY OF KANE

**DEVELOPMENT & COMMUNITY
SERVICES DEPARTMENT**
Mark D. VanKerkhoff, AIA, Director
Zoning Enforcing Officer
Building Officer



County Government Center
719 Batavia Avenue
Geneva, Illinois 60134
Phone: (630) 232-3480
Fax: (630) 232-3411
Website: www.co.kane.il.us

November 6, 2015

Via Email: j.tappendorf@ancelhlink.com
Julie Tappendorf
ANCEL, GLINK, DIAMOND, BUSH,
DICIANNI & KRAFTHEFER, P.C.
140 South Dearborn Street
Chicago, IL 60603

Dear Ms. Tappendorf,

Kane County received your letter on behalf of the Village of Campton Hills dated October 23, 2015, as well as a copy of Resolution R-15-18. Respectfully, the following positions stated in your letter are inaccurate:

1. Your interpretation of how provision, DD. Other uses similar to those permitted herein as special uses, should be applied to the processing and review of a petition submitted as such
2. Your interpretation of how the section, 25-5-15 Interpretation of Uses, applies to petitions rather than to applications for permits
3. That the County did not follow proper procedures for processing the petition
4. That the County violated our ordinance by scheduling the public hearing
5. That the ZBA has no authority to hear the petition
6. That "County staff" purposely skipped a step in the process
7. Your speculation that "Maybe County staff believes that if it does not put its approval or determination in writing, it can somehow avoid a formal appeal of that decision."

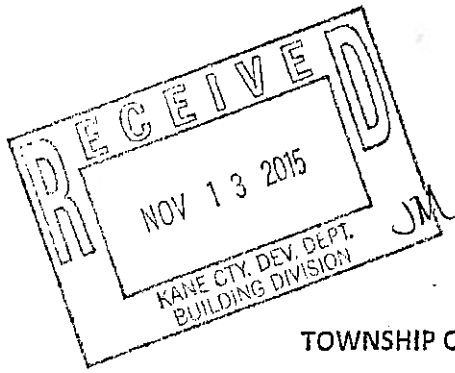
A copy of the Staff Report to the Kane County ZBA will be available to the Village of Campton Hills when it has been completed and in advance of the public hearing.

Sincerely,

Mark D. VanKerkhoff, AIA, Director
Kane County Development & Community Services Department
719 South Batavia Avenue
Geneva, Illinois 60134
(630) 232-3451

Cc: Harry Blecker, Village President, Village of Campton Hills
Trustees, Village of Campton Hills
Jennifer Johnson, Village Administrator, Village of Campton Hills
Kane County States Attorney's Office

Exhibit 8



RESOLUTION NO. 2015-1

TOWNSHIP OF CAMPTON

A RESOLUTION OPPOSING MAXXAM PARTNERS, LLC
PETITION TO KANE COUNTY FOR SPECIAL USE PERMIT

WHEREAS, in August of 2015, Maxxam Partner, LLC ("Maxxam") filed petition No. 4364 ("Maxxam Petition") requesting that the County of Kane ("County") approve a Special Use Permit to allow it to use and operate a private-pay alcoholism and substance abuse treatment facility ("Facility") on property located at 41W400 Silver Glen Road in unincorporated Kane County and zoned in the F Farming District ("Property"); and

WHEREAS, the County had originally scheduled Maxxam's petition for zoning board of appeals ("ZBA") on November 17, 2015, at 7:00 p.m., though has now cancelled this meeting as of November 10, 2015; and

WHEREAS, the County sent notice to the Township of Campton ("Township") regarding the proposed hearing on Maxxam's petition, which notice was dated October 15, 2015 (Exhibit "A"); and

WHEREAS, in its notice, the County provided the Township with 30 days notice to provide comments, recommendations, or suggestions to the County on the Maxxam Petition and, although the original November 17 meeting has now been cancelled, it is unclear to the Township whether the 30-day comment period to the County will either be waived or extended, thus compelling the Township to act as if the deadline still existed; and

WHEREAS, however, the Township did not receive the County's notice until October 26, 2015, more than one-third of the response time having elapsed and providing little time for the Township Board to carefully review Maxxam's request for relief and provide comments on the Maxxam Petition, there being only one Township Board of Trustees ("Township Board") meeting before the ZBA hearing; and

WHEREAS, the County was not willing to waive its minor conflict of interest that it had with the Township's attorney, and that other lawyers in the area offered concerns that the County would similarly not waive their minor conflicts either, the County essentially limiting the Township's ability to seek adequate counsel and legal representation in this matter within the remaining time allotted; and

WHEREAS, notwithstanding the late notice and other impediments imposed on the Township by the County in this matter, the Township Board desires to adopt and present to the County a formal resolution of the Township Board to oppose the Maxxam Petition based upon (i) the County's failure to follow its own Zoning Ordinance procedures for approving "similar"

use, (ii) Maxxam filing an application for the wrong form of zoning relief, (iii) Maxxam's proposed facility not complying with either the standards set forth in the Campton Township Comprehensive Land Use Plan or the County Zoning Ordinance for granting special use permit, and (iv) further points enumerated below;

THEREFORE, BE IT RESOLVED BY THE SUPERVISOR AND BOARD OF TRUSTEES OF THE TOWNSHIP OF CAMPTON, KANE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1. The recitals listed above are incorporated into this Resolution as if fully set forth in this Section 1.

SECTION 2. The Township Board agrees with the opinions offered by Ms. Julie A. Tappendorf (Ancel Glink et al, attached Exhibit "B") and Mr. Carrara (Rathje & Woodward, LLC, attached Exhibit "C") that a Special Use Permit within a F District is not allowable and that the current process is contrary to Kane County's own Zoning Ordinance.

SECTION 3. Furthermore, and unless otherwise noted, the Township Board concurs in-full with the Village of Campton Hills' ("Village") November 3, 2015 resolution ("Village Resolution") and herein adopts it as if its own (attached, Exhibit "D"). This being said, should conflict occur between the Township and Village Resolutions, the contents of the Township Resolution shall take precedence in this Resolution over the Village Resolution and remain the Township's official position regarding the Maxxam Petition.

SECTION 4. Documents included in support of the Maxxam Petition¹ examined zoning maps for the Village and Elgin though neglected to review or consider Campton Township's Comprehensive Land Use Plan, first passed in December 2000, revised in 2006, and most recently revised again September 2015.

SECTION 5. The Township Board opposes the Maxxam Petition because the Zoning Officer and County have failed to either perform or provide independent analyses or any of the basic investigations required through the zoning process². As examples, it has neither conducted nor provided any independent data regarding impact on comfort or general welfare of residents, nor has it conducted/provided independent studies related to the potential impact on property values, emergency services, or general safety. In other words, the County has abrogated its duty in this matter and can neither meaningfully nor independently answer any of the concerns that are required as part of a Public Hearing³ RE Special Uses. In its rush to move this matter forward, the County has also denied key participants like the Village and Township time to conduct our own independent assessment of these matters or have these materials reviewed by expert witnesses. In short, the County has artificially restricted local government

¹ Poletti & Associates, A REAL ESTATE STUDY FOR THE PROPOSED ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT FACILITY UNINCORPORATED KANE COUNTY, ILLINOIS, , June 2015

² Appendix B of the Kane County Zoning Ordinance, page 17, Section 4.2-4 m, Rules

³ Appendix B of the Kane County Zoning Ordinance, page 23, Section 4.8-2 a-f, Public Hearing

participation and, by doing so, undermined its own credibility as a fair arbiter of the Zoning process, only staying the process when necessitated through appeal.

As examples, though not limiting the Township's concerns to these issues alone, the County should validate items and provide supporting evidence for the following through independent means (i.e., without input from the petitioner):

- The MaROUSE & COMPANY⁴ report (not attached, though part of the Petition) used a dissimilar site for comparison to the proposed Maxxam Partners' model. The Park Ridge Youth Campus (now closed) was never established to treat drug or alcohol addiction, nor did it accept detox residents of any classification, nor was it ever licensed to administer drugs to manage these effects. It housed emotionally troubled young girls between the ages of 12-18.

QUESTION: What is the impact of using dissimilar sites in any comparison RE assessing the potential impact on real estate values near the Property?

- The Real Estate Study prepared by Poletti & Associates⁵ (not attached, though part of the Maxxam Petition) fails to mention that Timberline Knolls is located amongst high-density housing, heavy industrial sites, and a major highway. Similar to the Park Ridge Youth Center, the Rosecrance Center that was used in this study serves juveniles and is located near a major highway and amongst an area with historically depressed property values. In other words, it would appear that the impact on the surrounding properties from the Timberline and Rosecrance facilities have a completely different price point sensitivity to them due to the high density and industrial natures of the areas surrounding them.

QUESTION: When multiple perceived detrimental factors surround a given facility – i.e., when a facility is located near high-density housing, major highways, scrap yards, and industrial sites – how is the impact of any one single factor distinguished from the high volume of other perceived negative factors nearby? How is this then applied to real estate near the Property which is void of any of these perceived negative factors?

- The proposed Facility is planned to be 20-50% larger than any of the facilities used in the above mentioned impact studies and, unlike the comparisons offered, will both detoxify and treat adults for addiction to alcohol and/or opiates.

QUESTION: Would not these elements, singularly and combined, make any comparison between them and the proposed Maxxam Facility baseless? Does the impact on

⁴ MaROUSE & COMPANY, Market Impact Analysis, Proposed Alcoholism and Substance Abuse Treatment Facility, 41W400 Silver Glen Road, Unincorporated St. Charles, Illinois 60175, August 20, 2015

⁵ Poletti & Associates, A REAL ESTATE STUDY FOR THE PROPOSED ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT FACILITY UNINCORPORATED KANE COUNTY, ILLINOIS, June 2015

surrounding real estate increase in either a linear or exponential manner with the increase in size of the Facility or scale of services offered?

SECTION 6. The County has neglected its own past precedent in zoning. Only two facilities in unincorporated Kane County offer nursing home, rehabilitation, or a variety of short-to-long-term managed care services⁶. Both of these were specifically and purposefully zoned as Planned Urban Development (PUD), vs. having been ushered in under Special Use Permit. Unlike any of the proposed rationale for the Facility's purpose being "similar" to other allowable uses under Special Use, the two facilities referenced were specifically stated as allowed under Special Use Permit.⁷

q. "Monasteries, nunneries, religious retreats, **nursing and convalescent homes, assisted living facilities, boarding schools and orphanages.**"

In other words, smaller, less intensive facilities than those being proposed by Maxxam underwent a greater amount of public planning and adherence to the zoning process than is being afforded here with the current Maxxam Petition.

SECTION 7. The Township opposes the Property as being unsuited for the purpose intended by Maxxam. Per the Murer Consultants Memorandum⁸, twenty-two facilities in Illinois of the type proposed are co-located and affiliated with a hospital. "...Only one existing non-hospital facility is licensed by the Division of Alcoholism and Substance Abuse in Illinois to provide Level IV detoxification services: Cornell Interventions, Woodridge IL." It needs stating that Cornell Interventions (zoned B2 and surrounded by shopping) is located 4.9 miles from Advocate Good Samaritan Hospital ("Advocate") – less than half the distance from the proposed Maxxam site to either Delnor or Sherman Hospitals. Woodridge, having a higher population density, is also served by numerous ambulance and other emergency services via more-direct double-lane roads between emergency services, Cornell Interventions, and the hospital. In fact, Darien-Woodridge Fire Protection Station 88 is only 0.8 miles from Cornell Interventions and could be there to provide ambulance and emergency medical services in less than 3 minutes. Two other stations can provide backup support, each within less than 10 minutes. In comparison, the proposed Maxxam site would be served by Fox River & Countryside Fire/Rescue District at a distance of 4.5 miles (8 minutes) via single-lane roads, the majority of the trip along no-passing zones. Backup services to the primary responders would be 20 minutes or more should those initial emergency services be occupied; however, even under the best of circumstances, the total response time for callout to Maxxam and then to a hospital is at-least 3-times greater than exists for Cornell Interventions to Advocate and would lack coordinated backup support. Such time commitments would place patients, emergency service

⁶ Greenfields of Geneva (<http://www.greenfieldsofgeneva.org/>) and Marklund Hyde Center (<http://www.marklund.org/>)

⁷ Appendix B of the Kane County Zoning Ordinance, page 46, Section 8.1-2 q, Special Uses. **BOLD** added for emphasis

⁸ Murer Consultant, Inc., page 5, June 17, 2105 Memorandum to Maxxam Partners, on record as part of the petition filed with Kane County

providers, and roadway patrons in potential jeopardy as well as compromise local emergency services through extended callout times. None of these concerns were addressed in the KLOA Summary Traffic Evaluation Memorandum⁹ that was provided with Maxxam's Petition.

SECTION 8. The Township maintains the above listed Sections, objects to the Maxxam Petition, and believe it should be rejected. Furthermore, the Township requests any further pursuit for rezoning by Maxxam Partners should (at minimum) follow the regular (non Special Use) process for zoning change requests. Should a large facility of this type (serving a non-local, transient, and medically vulnerable population) be permitted within the County, the Township requests that it be affiliated with and co-located adjacent to a hospital – as is the practice for an overwhelming majority of addiction facilities that detox patients on-site in the State of Illinois.

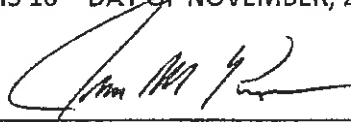
SECTION 9. Unless otherwise stipulated above, all ordinances, resolutions, and other documents in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 10. This Resolution shall be in full force and effect from after its passage and approval in the manner provided by law.

Passed this 10th day of November, 2015 by roll call vote:

	AYES	NAYES	ABSENT	ABSTAIN
Trustee Joseph Miller	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Elizabeth Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Tom Stutesman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Victoria Vandiver	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supervisor John Kubar	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED THIS 10TH DAY OF NOVEMBER, 2015



John Kubar, Supervisor

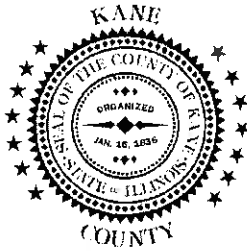
(SEAL)



ATTEST: Richard Johansen, Township Clerk

⁹ KLOA - Kenig, Lindgren, O'Hare, Abona, Inc.: Summary Traffic Evaluation, Proposed Alcoholism and Substance Abuse Treatment Facility, Unincorporated Kane County, Illinois, June 22, 2015

Exhibit 9



Kane County Development
& Community Services Department
719 Batavia Avenue
Geneva, IL 60134
Tel: (630) 232-3480
Fax: (630) 232-3411

MEMO

Date: November 12, 2015
To: Kane County Zoning Board of Appeals
From: Mark VanKerkhoff, AIA, Director, Zoning Enforcing Officer
Re: Appeal dated October 30, 2015, in relation to Maxxam Partners, LLC –
Special Use Petition 4364

Background

The Kane County Zoning Ordinance, *Section 4.5. Appeals*, states that any person aggrieved may appeal to the ZBA to review any order, requirement, decision or determination made by the Zoning Enforcing Officer. Such an appeal was received dated October 30, 2015, in relation to Petition 4364. Per Section 4.5-2, the appeal stays all proceedings in furtherance of the action appeal from, in this case, Petition 4364. In light of this, the public hearing scheduled for Petition 4364 was cancelled and will be rescheduled and re-noticed for a later date to be determined following the resolution of the appeal.

Summary of the Appeal

The alleged aggrieved parties argue that:

1. My decision not to follow Section 5.15 of the Kane County Zoning Ordinance was not appropriate and must be reversed
2. The special use proposed in Petition 4364 is not sufficiently similar to any use defined in the Kane County Zoning Ordinance and should not be considered by the Zoning Board of Appeals

Summary of Zoning Enforcing Officer's Positions

The basis for my decision making in processing Petition 4364 is as follows:

1. Section 5.15 applies to application for permits under my duties as Zoning Enforcing Officer, not for petitions for special uses which must be processed per Section 4.8. This process falls under the duties of the Zoning Board of Appeals and the authority of the County Board per Section 4.8.
2. The Petitioner has petitioned the County Board for a special use under the Special Uses permitted in the F District – Farming, specifically Section 8.1-2 Special Uses. "*dd. Other uses similar to those permitted herein as special uses*". I determined that the petition was complete and reasonable and scheduled it for a public hearing per Section 4.8. The ZBA may determine its own recommendation in regard to if the proposed use is similar to other uses after hearing the evidence.

Note: In 2012 and 2013, the Village of Campton Hills processed and considered a similar proposal for this property as a special use in the F District – Farming.

Zoning Enforcing Officer's comments regarding Appeal Item 1:

I did not follow Section 5.15 in respect to Petition 4364 because:

1. This section applies to applications for permits, not for petitions for special uses
2. It is permissive (MAY) rather than mandatory (SHALL)

25-5-15: INTERPRETATION OF USE LISTS:

The enforcing officer **may** allow land uses which, though not contained by name in a zoning district list of permitted or special uses, are deemed to be similar in nature and clearly compatible with the listed uses. However, such nonlisted uses shall not be approved until the **application** for such use has been reviewed by the county development department staff and a favorable report has been received by the enforcing officer. The nonlisted uses which are approved shall be added to the appropriate use list at the time of periodic updating and revision. (Ord. 79-229, § 3, 12-11-1979)

The above reflects the permit application and review process for buildings and for establishment of uses (such a new business in an existing building) per Section 4.3 Permits. Such new, nonlisted uses are later considered for text amendments through the ZBA and County Board processes per Section 4.7 Amendments.

Related Sections:

25-4-1: ZONING ENFORCING OFFICER:

There is hereby created the position of zoning enforcing officer, whose office shall be located in the county government center, and said person to be selected by the county board shall be designated as the zoning enforcing officer. It shall be his duty to administer and enforce the provisions of this ordinance, and to that end **he shall have the power to make such orders, requirements, decisions, and determinations as are necessary with respect to applications for permits** and the enforcement of this ordinance.

25-4-3: PERMITS:

25-4-3-1: PERMIT TO BE OBTAINED: A **written permit** shall be obtained from the building enforcing officer, located in the county government center, Geneva, Illinois, before starting:

- A. To establish any new use of property;
- B. To excavate for or build any foundation;
- C. To erect, construct, reconstruct, enlarge, alter or move any building or structure;
- D. To **change the use of any building, structure, or land from one classification to another;** or
- E. In the case of nonconforming uses, to change from one use to another;

25-4-3-3: APPLICATION FOR PERMIT:

Applications for the permits shall be filed in written form with the enforcing officer, shall state the legal description of the property as of public record and the name of owner and applicant and **shall describe the uses to be established** or extended, and shall give the estimated cost and such other information as may be required for the enforcement of this ordinance. Each copy of the application shall be accompanied by a dimensioned drawing of the building plot showing the location of buildings and structures, lot areas to be used, auto parking areas, and other pertinent information. All applications for permits and copies of permits issued shall be systematically kept for ready public reference by the enforcing officer.

Maxxam Partners LLC has petitioned the County Board for a special use. They have not made an application for a permit. Petition 4364 was properly processed according to Section 4.8 Special Uses.

25-4-8: SPECIAL USES:

25-4-8-1: PURPOSE:

The development and execution of this ordinance is based upon the division of the county into districts within which districts the use of land and buildings, and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain 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 in the particular location. To provide for the location of special classes of uses which are deemed desirable for the public welfare within a given district or districts, but which are potentially incompatible with typical uses herein permitted within them, a classification of "special uses" is hereby established.

25-4-8-2: PUBLIC HEARING:

Uses as hereinafter enumerated, which may be proposed for classification as "special uses", shall be considered at a public hearing before the zoning board, and its report of findings of fact and recommendations shall be made to the county board following the public hearing.

Appeal Item 1 Conclusions:

1. Maxxam Partners LLC did not make an application for a permit.
2. They submitted a petition for a special use.
3. Section 5.15 applies to application for permits under my duties as Zoning Enforcing Officer, not for petitions for special uses which must be processed per Section 4.8 Special Uses
4. Petitions for special uses fall under the duties of the Zoning Board of Appeals and the authority of the County Board per Section 4.8 Special Uses
5. Petition 4364 was properly processed according to Section 4.8 Special Uses.

Zoning Enforcing Officer's comments regarding Appeal Item 2:

The Petitioner has petitioned the County Board for a special use under the Special Uses permitted in the F District – Farming, specifically "dd. Other uses similar to those permitted herein as special uses". I determined that the petition was complete and reasonable and scheduled it for a public hearing per Section 4.8 Special Uses. The ZBA may determine its own recommendation in regard to if the proposed use is similar to other uses after hearing the evidence.

The petition and supporting opinions advocate that the proposed special use for a private-pay alcoholism and substance abuse treatment facility is similar to the following special uses listed for the F District and the R1 District:

- Monasteries, nunneries, religious retreats, nursing and convalescent homes, assisted living facilities, boarding schools and orphanages.
- Hospitals, general, for human beings. This may include power plants, residence for nurses and similar facilities.

The Kane County Zoning Ordinance, Article III. Rules and Definitions includes:

CONVALESCENT OR NURSING HOME: A private home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders.

The petitioner also requests "reasonable accommodation" in that the proposed alcoholism and substance abuse treatment facility will provide in-patient residential treatment to persons with disabilities who are protected under the terms of the Federal Fair Housing Act.

I have reviewed the petition and supporting opinions as well as several opposing opinions submitted by an adjacent property owner and the Village of Campton Hills with assistance from the Civil Division of the Kane County State's Attorney Office. I am of the opinion that the proposed use of a private-pay alcoholism and substance abuse treatment facility is similar enough to the other uses listed above to be considered by the Zoning Board of Appeals and the Kane County Board, subject to testimony and evidence which may be forthcoming through the public hearing and public meeting process defined in the Kane County Zoning Ordinance and by the procedures of the Kane County Board.

In addition to the opinions included in the petition, please note that the proposed special use of private-pay alcoholism and substance abuse treatment facility may additionally be considered similar to "Monasteries, nunneries, religious retreats, nursing and convalescent homes, assisted living facilities, boarding schools and orphanages". It may be considered similar in that one of the common aspects of these institutional uses is that they all include residential facilities of various types to provide housing for staff, patients, students and/or others in the care of and/or under the umbrella of the institution. The inclusion of these various type of institutional uses on the same list suggests that it is the potential greater density of such institutional uses along with residential living units proposed to be located in the F District, along with supporting infrastructure, which requires the special use approval from the Kane County Board before such facilities may be approved as a land use and subsequently constructed. Such infrastructure includes water supply, wastewater disposal, parking and storm water management facilities.

The case for the appeal states that the Village of Campton Hills supports their opinions and their appeal. The appeal included the letter to me from the Village's attorney dated October 23, 2015. Additionally, the Village has passed *Resolution 15-18 - A Resolution Opposing Maxxam Partners, LLC Petition to the Kane County for a Special Use*.

In 2012 and 2013, the Village of Campton Hills processed and considered a similar special use for this property as a special use in the F District – Farming. While the proposed annexation and special use was defeated by one vote at the final Village Board meeting, the proposed special use was processed and was the subject of multiple public hearings and the final vote as a special use.

The above is relevant to this appeal because the Village of Campton Hills adopted the Kane County Zoning Ordinance after the Village incorporated, and a letter to me from the Village attorney dated October 23, 2015, was included in the documents submitted for this appeal.

1/11/13
VILLAGE OF CAMPTON HILLS

SPECIAL USE ORDINANCE
TO ALLOW FOR A HOSPITAL RELATED FACILITY
(ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY)

WHEREAS, The Glenwood School, an Illinois not-for-profit corporation ("Owner"); KIVA Recovery, LLC, an Illinois limited liability company ("Operator"); and KIVA Real Estate Investments, LLC, an Illinois limited liability company, ("Purchaser") (collectively, Owner, Operator and Purchaser shall be referred to as "Petitioners" and Operator and Purchaser shall be referred to as "KIVA") have applied for a special use permit to allow for the operation of an alcohol and substance abuse treatment facility at the property legally described in Exhibit "A" attached hereto and a part hereof and commonly known as the Glenwood School for Boys, with the street address of 41W400 Silver Glen Road, St. Charles, Illinois (the "Subject Property"); and

WHEREAS, the Subject Property is located within the "F" Farming District of the Village;
and

WHEREAS, pursuant to the Zoning Ordinance, property within the "F" Farming District may be used for a "nursing and convalescent home," "assisted living facility," and "group home" upon issuance of special use permits therefor; and

WHEREAS, pursuant to Section 8.1-2(dd) of the Zoning Ordinance, "other uses similar to those permitted [by the Zoning Ordinance] as special uses" are allowed in the "F" Farming District upon issuance of a special use therefor; and

WHEREAS, the Village Zoning Officer has determined that the proposed use of the Subject Property for the operation of an alcohol and substance abuse treatment facility is similar to the uses of nursing and convalescent home," "assisted living facility," and "group home"; and

WHEREAS, the Plan Commission, pursuant to notice published and given in accordance with the law, held public hearings on said request and at said public hearings heard the testimony of the Petitioners, experts employed by Petitioner, neighboring owners and residents and testimony of numerous other persons; and

WHEREAS, the Plan Commission has made findings and unanimously has recommended the approval of a special use, to allow for a hospital related facility which is an alcohol and substance abuse treatment facility including housing for patients and staff on the premises subject to restrictions and conditions.

The above ordinance represents the culmination of a more than 6 month process and many public hearings and meetings. The Village is questioning the County staff's processing a petition for a similar use under the same ordinance language.

Appeal Item 2 Conclusions:

1. The Petitioner has petitioned the County Board for a special use under the Special Uses permitted in the F District – Farming, specifically "*dd. Other uses similar to those permitted herein as special uses*".
2. I determined that the petition was complete and reasonable and scheduled it for a public hearing per Section 4.8 Special Uses.
3. The ZBA may determine its own recommendation in regard to if the proposed use is similar to other uses after hearing the evidence.
4. In 2012 and 2013, the Village of Campton Hills processed and considered a similar proposal for this property as a special use in the F District – Farming.

Exhibit 10

APPENDIX B¹

ZONING^{2,3}

- Art. I. Title
 - Art. II. Purpose
 - Art. III. Rules and Definitions
 - Art. IV. Administration and Enforcement
 - Art. V. General Provisions
 - Art. VI. Nonconforming Buildings, Structures, and Uses
 - Art. VII. Zoning Districts
 - Art. VIII. Farming District
 - Art. IX. Residential Districts
 - Art. X. Business Districts
 - Art. XI. Industrial Districts
 - Art. XII. Planned Unit District
 - Art. XIII. Airport Districts
 - Art. XIV. Off-Street Parking
 - Art. XV. Restrictions and Regulations Governing Mining of
Topsoil, Earth, Clay, Gravel, Peat, Sand and Stone
 - Art. XVI. Miscellaneous Provisions
- Appendix A. Instructions

1. Editor's Note: This Appendix contains the County's Zoning Ordinance, originally adopted on December 15, 1937, as thereafter amended and readopted by Ord. No. 76-29 on March 9, 1976. The source for this Appendix is such ordinances printed in the compiled copy of the Zoning Ordinance prepared by the County, which is considered authoritative by the County. The editor has placed the term "Sec." prior to each major section's number. Inclusion of the Zoning Ordinance in appendix form was deemed advisable because of the procedures required to enact such an ordinance.

2. See also Buildings and Building Regulations, Ch. 6; Kane County Stormwater Ordinance, Ch. 9; application of flood plain regulation to Zoning Ordinance, § 9-5; Zoning Ordinance saved from repeal, § 1-3; encroachment on certain public rights of way, § 17-4; Subdivisions, Ch. 19; Trailer Coach and Mobile Home Parks, Ch. 22.

3. S.H.A. 55 ILCS 5/5-12001.

APPENDIX B-ZONING

Use, special: A use, either public or private, which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such "special use" may or may not be granted, subject to the terms of this ordinance.

Vibration: The periodic motion of particles or elastic body.

Vibration Frequency: The number of oscillations per second of a vibration.

Yard: An unoccupied open space on the same zoning lot with a building or structure. A "yard" extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.

Yard, corner side: A side yard which adjoins a public street.

Yard, front: A yard extending along the full length of the front lot line between the side lot lines.

Yard, interior side: A yard which is located immediately adjacent to another recorded or zoning lot or to an alley separating such side yard from another lot.

Yard, rear: A yard extending along the full length of the rear lot line between the side lot lines.

Yard, side: A yard extending along a side lot line from the front yard to the rear yard.

Yard, transitional: That yard which must be provided on a zoning lot in a Commercial District which adjoins a zoning lot in a Residential District, or that yard which must be provided on a zoning lot in an Industrial District which adjoins a zoning lot in either a Residential or Commercial District.

Zoning Enforcing Officer: The officer designated by the County Board as the officer responsible for enforcing and administering the requirements of this Zoning Ordinance. (Ord. No. 78-79, § 1, 6-13-78; Ord. No. 80-37, § 2, 3-13-80; Ord. No. 82-66, 5-11-82-1 Ord. No. 83-15, 1-11-83; Ord. No. 88-62, 5-10-88; Ord. No. 90-176, 8-14-90; Ord. No. 92-187, 9-8-92; Ord. No. 97-46, 2-13-97; Ord. No. 97-240, 9-9-97; Ord. No. 02-81, 3-12-02; Ord. No. 08-07, 1-8-08; Ord. No. 14-200, 7-8-14)

ARTICLE IV. ADMINISTRATION AND ENFORCEMENT

[Sec. 4.0. Generally.]

The primary administration and enforcement responsibilities of this Ordinance is hereby vested in the Zoning Enforcing Officer, the Zoning Board of Appeals and the County Board of Kane County, Illinois.

Sec. 4.1. Zoning Enforcing Officer.

There is hereby created the position of Zoning Enforcing Officer, whose office shall be located in the County Government Center, and said person to be selected by the County Board shall be designated as the Zoning Enforcing Officer. It shall be his duty to administer and enforce the provisions of this Ordinance, and to that end he shall have the power to make such orders, requirements, decisions, and determinations as are necessary with respect to applications for permits and the enforcement of this Ordinance.

APPENDIX B-ZONING

Sec. 4.2. Zoning Board of Appeals.

4.2-1 Creation and Membership.

A Zoning Board of Appeals, hereafter referred to by the term Zoning Board or Board of Appeals, is hereby authorized to be established. Such Zoning Board shall consist of seven (7) members appointed by the Chairman of the County Board and confirmed by the members of the County Board of Kane County. All members shall be appointed for a 5-year term.

Vacancies shall be filled by the Chairman of the County Board for the unexpired terms only subject to confirmation by the County Board at its next meeting. The Chairman of the County Board shall have power to remove any members of the Zoning Board, for cause, after a public hearing upon giving ten (10) days written notice thereof. (Ord. No. 78-3, 1-10-78)

4.2-2 Chairman and Meetings.

The Chairman of the County Board of Kane County shall name one of the members of the Zoning Board as chairman upon his appointment and in case of vacancy shall name the chairman. All meetings of the Zoning Board shall be held at the call of its chairman or any three (3) members of the Zoning Board, at such times and places within the County as the Zoning Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board shall be open to the public.

The Zoning Board shall keep minutes of its proceedings showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Zoning Board shall immediately be filed in the office of the Zoning Board located in the Development and Community Services Department and shall be a public record. In the performance of its duties, the Zoning Board may incur such expenditures as shall be authorized by the County Board of Kane County. The Zoning Board shall adopt its own rules of procedure not in conflict with the statute or this Ordinance.

4.2-3 Jurisdiction.

The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Enforcing Officer charged with the enforcement of this Ordinance. It shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.

The concurring vote of five (5) members of the Board of Appeals shall be necessary to reverse any orders, requirements, decisions or determinations of the Zoning Enforcing Officer or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance, or to effect any variations in this ordinance.

The Board of Appeals shall also have the power to exercise such other powers as are or may be vested in the Board of Appeals.

4.2-4 Rules.

In addition to the rules specified in sections 4.2-1 through 4.2-3 of this Ordinance as well as in the state statutes, the following Rules of the Kane County Zoning Board of Appeals, as adopted on May 26, 1938, and amended from time to time shall apply.

- a. Acting Chairman. The ranking member of the Zoning Board shall act as Chairman in the absence of the Chairman.

APPENDIX B-ZONING

- b. Points of Order. All points of order, not otherwise covered, shall be decided by the Chairman, subject to appeal to the Zoning Board.
- c. Zoning Board of Appeals Records. The Director of the Development and Community Services Department shall be responsible for the keeping of the minutes of the proceedings of the Zoning Board and to direct the keeping of its records in the Development and Community Services Department. Each case coming before the Zoning Board shall be numbered consecutively and all records of the Zoning Board relating thereto shall carry such number and be filed together.
- d. Publications and Notices. The Chairman, or in his absence the acting Chairman, shall determine the time and place of each meeting and hearing. Official publications and notices of the Zoning Board shall be prepared and processed by the Director of the Development and Community Services Department, in the name of the Zoning Board.
- e. Meetings and Hearings. Four members shall be necessary in order to vote on (1) the granting of a variation, (2) reversing any order, requirement, decision or determination of the Enforcing Officer, or (3) recommending passage of a proposed amendment. Any two or more members may, upon the stipulation of all parties present at any public hearing, consent to sit for the purpose of hearing and taking evidence for submission to a subsequent hearing of the Zoning Board at which formal action may be taken.
- f. Time Limit for Appeal. Notice of intention to appeal from any order, requirement, decision or determination made by the Enforcing Officer shall be made within thirty (30) days.
- g. Withdrawals. Any appeal or application may be withdrawn prior to action with the consent of the Zoning Board, but in no case shall fees received be returned without proper action of the Kane County Development Committee.
- h. Rehearings. No rehearing on an appeal or application for a variation or amendment previously denied by the Zoning Board, or reconsideration of the vote thereon, may again be entertained unless in the judgment of the Zoning Board new plans or new conditions materially change the aspect of the case or new evidence should be heard. In case of a reversal, the rights of others to appeal to a court shall not be prejudiced. All petitions for a rehearing shall be presented within ten (10) days after decision of the Zoning Board of Appeals.
- i. Annual Report. A report of the activities of the Zoning Board as of November 30 shall be made to the County Board of Kane County at their December meeting each year.
- j. Rules of Order. Robert's Rules of Order shall govern the procedure of the Zoning Board where they apply and do not conflict with these rules, the Zoning Ordinance or the statutes.
- k. Suspension of Rules. These rules may be suspended only upon the affirmative vote of five (5) members of the Zoning Board.
- l. Amendment. These rules may be amended at any meeting by a majority vote of the Zoning Board, provided the notice of the meeting contains the proposed amendment.
- m. Investigations. Upon the filing of an application for an amendment or for a variation and the payment of the required fee, the Enforcing Officer shall immediately make or direct such inspections, studies, photographs and drawings of the existing conditions involved and the effect of the proposed building, structure or use as may be necessary for careful consideration of the proposal by the Zoning Board, and after each member is encouraged to visit the site before the hearing. (Ord. No. 78-141, 10-10-79; Ord. No. 05-304, 9-13-05; Ord No. 12-295, 10-9-12)

APPENDIX B-ZONING

Sec. 4.3. Permits.

4.3-1 A written permit shall be obtained from the Building Enforcing Officer, located in the County Government Center, Geneva, Illinois, before starting:

- a. To establish any new use of property;
- b. To excavate for or build any foundation;
- c. To erect, construct, reconstruct, enlarge, alter or move any building or structure;
- d. To change the use of any building, structure, or land from one classification to another, or
- e. In the case of nonconforming uses, to change from one use to another;
- f. To dig or drill any well; and
- g. To install, add to or repair any sewerage disposal system.

4.3-2 Signs (except as herein provided) and fences which cannot be viewed through, and concrete, stone or masonry walls, shall require permits. Each permit issued for a main building shall also cover any accessory buildings constructed at the same time. Any new use or change in use authorized by permit but not started or made within ninety (90) days shall require a renewal permit.

4.3-3 Applications for the permits shall be filed in written form with the Enforcing Officer, shall state the legal description of the property as of public record and the name of owner and applicant and shall describe the uses to be established or extended, and shall give the estimated cost and such other information as may be required for the enforcement of this ordinance. Each copy of the application shall be accompanied by a dimensioned drawing of the building plot showing the location of buildings and structures, lot areas to be used, auto parking areas, and other pertinent information. All applications for permits and copies of permits issued shall be systematically kept for ready public reference by the Enforcing Officer.

4.34 No building permit as required by this ordinance shall be issued for a building to be constructed on any lot, piece, parcel or tract of land that does not conform with the provisions of Chapter 109, Illinois Revised Statutes, in force from time to time, and the subdivision regulations and other applicable ordinances in force from time to time in this county, and also the Building Ordinance of Kane County, Illinois, adopted December 15, 1954, as amended from time to time.

4.3-5 No building or structure, except advertising signs as permitted herein, shall be constructed on land which is unsuitable for such construction by reason of flooding, bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future inhabitants of said land. Where such condition can be corrected or where construction can be designed to overcome such condition, such correction or construction shall be designed by a registered engineer or architect, qualified for such work, prior to issuance of permit. (Ord. No. 88-62, 5-10-88)

Cross reference—Buildings, Ch. 6.

Sec. 4.4. Variances.

4.4-1 Purpose.

Whenever in a specific case, after an application for a permit has been made to the Zoning Enforcing Officer, an appeal is made to the Zoning Board that there are practical difficulties or particular hardship in the way of carrying out the strict letter of any regulations relating to the construction, alteration or location of buildings or structures, the Zoning Board may determine and vary their application in harmony with the general purpose and intent of such

APPENDIX B-ZONING

regulations, upon such conditions as may be considered appropriate and in the public interest, and in accordance with the rules herein set forth.

4.4-2 Public Hearing.

No variation shall be made except after a public hearing before the Zoning Board of which there shall be at least fifteen (15) days notice of the time and place of such hearing published in a newspaper of general circulation published in the township where property is located. If no newspaper is published in such township, then such notice shall be published in a newspaper of general circulation published in the county where such property is located. Said notice shall contain the particular location for which the variation is requested as well as a brief statement of what the proposed variation consists. However, the Zoning Board may consider an appeal for and decline to grant a variation without a duly advertised hearing upon seven (7) days written notice to petitioner.

4.4-3 Standards for Variances.

No variation shall be made unless the Zoning Board of Appeals finds that there is a practical difficulty or some particular hardship upon the property if the regulations are applied, and shall further find that such variations will not:

- a. Impair an adequate supply of light and air to adjacent property;
- b. Increase the hazard from fire and other dangers to adjacent property;
- c. Diminish the value of adjacent land and buildings;
- d. Increase the congestion or traffic hazards in the public streets and highways; and
- e. Otherwise impair the public health, safety, comfort, morals and general welfare.

4.4-4 Decision of the Zoning Board.

The Board of Appeals shall reach its decision within thirty (30) days from the date of the public hearing on the request for variance. Four (4) of the seven (7) members of the Board of Appeals must concur in order to grant a variance. If the variance is granted, the action of the Zoning Board in granting a variation shall contain or be accompanied by a finding or fact specifying the reason for making such variation.

4.4-5. [Petitions for variations of ten (10) percent or less.]

All petitions for variances which seek a variation of ten (10) percent or less of the requirements of the Kane County Code regarding the location of structures or bulk requirements shall be reviewed and decided upon by the Kane County Zoning Enforcement Officer without a hearing before the Zoning Board of Appeals. However, before such variation may be granted, a Notice of the Intent to Grant such variation shall be sent by certified mail to all adjoining landowners. If any adjoining landowner files a written objection with the Zoning Enforcement Officer within fifteen (15) days of the receipt of such notice, the variation shall not be considered by the Zoning Enforcement Officer under this section, but shall be considered pursuant to Section 4.4-2. (Res. No. 91-52, 3-12-91; Ord. No. 05-304, 9-13-05)

Sec. 4.5. Appeals.

4.5-1 Scope of Appeals.

Any person aggrieved or any officer, department, board or bureau of the county may appeal to the Zoning Board to review any order, requirement, decision or determination made by the Enforcing Officers or to interpret the regulations. Such appeal shall be taken within such time as shall be prescribed by the Zoning Board by general rule as set forth in Section 4.2-4, by filing with the Enforcing Officers from whom the appeal is taken and with the Zoning

APPENDIX B-ZONING

Board, a notice of appeal, specifying the grounds thereof. The Enforcing Officer shall forthwith transmit to the Zoning Board all the papers constituting the record upon which the action appealed from was taken.

4.5-2 Stay of Any Action.

An appeal stays all proceedings in furtherance of the action appealed from, unless the Enforcing Officer certifies to the Zoning Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board, or by a court of record on application, on notice to the Enforcing Officer and on due cause shown.

4.5-3 Notice of Hearing.

The Zoning Board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent or by attorney. The Zoning Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the Enforcing Officer.

4.5-4 Decision of the Zoning Board.

The Board of Appeals shall reach its decision within thirty (30) days from the date of the public hearing on the appeal. The concurring vote of four (4) members of the Zoning Board shall be necessary to reverse any order, requirement, decision or determination of the Enforcing Officer. (Ord. No. 05-304, 9-13-05)

Sec. 4.6. Appeals to courts.

All final administrative decisions of the Board of Appeals are subject to judicial review pursuant to the provisions of the "Administrative Review Act", approved May 8, 1945, and all amendments and modifications thereof and the rules adopted pursuant thereto.

State law reference—Administrative review act, Ill. Rev. Stat. Ch. 110, § 264 et seq.

Sec. 4.7. Amendments.

4.7-1 Initiation of Amendments.

For the purposes of this section, the term "text amendment" means an amendment to the text of this ordinance, which affects the whole county, and the term "map amendment" means an amendment to the zoning map which affects an individual parcel or parcels of land. Amendments may be proposed by the County Board, the Zoning Board of Appeals or by any person, firm, corporation, or other legal entity having a freehold interest in the subject property, or a possessory interest entitled to exclusive possession, or a contractual interest which may become a freehold interest and which is specifically enforceable. Proposed amendments shall be directed to the Zoning Board of Appeals for consideration and report to the County Board.

4.7-2 Public Hearing.

No amendment to this ordinance shall be made without a hearing before the Zoning Board of Appeals. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in Kane County. Hearings on text amendments shall be held in the court house or other county building with more adequate facilities for such hearings. Hearings on map amendments shall be held in the township or road district affected by the terms of such proposed amendment or in the court house, or other county building with more adequate facilities for such hearings. Provided, that if the owner of any property affected by such proposed map amendment so requests in writing, such hearing shall be held in the township or road district affected by the terms of such proposed amendment. Within 30 days after the final hearing, the Zoning Board shall file a report with the County Board.

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4.7-3 Action by the County Board.

- a. *Text Amendments:* Text amendments may be passed at a county board meeting by a simple majority of the elected county board members, unless-
1. written protests against the proposed text amendments are signed by 5% of the land owners of the County,
 2. a written protest by resolution of the corporate authorities of a zoned municipality is filed with the County Clerk, or
 3. in the case of a text amendment affecting an unincorporated area of a township having a plan commission, written objections are submitted by the township board of trustees to the County Board within 30 days after the hearing before the Zoning Board of Appeals,

in which case such amendments shall not be passed except by the favorable vote of 3/4 of all the members of the County Board.

- b. *Map Amendments:* Map amendments may be passed at a County Board meeting by a simple majority of the elected County Board members, except that in case of written protest against any proposed map amendment that is either
1. Signed by the owner or owners of at least 20% of the land to be rezoned; or
 2. Signed by the owner or owners of land immediately touching, or immediately across a street, alley, or public right-of-way from at least 20% of the perimeter of the land to be rezoned; or
 3. In cases where the land affected lies within 1¹/₂ miles of the limits of a zoned municipality, by resolution of the corporate authorities of the zoned municipality filed with the county clerk, or
 4. In the case of a map amendment affecting an unincorporated area of a township having a plan commission, written objections are submitted by the township board of trustees to the County Board within 30 days after the hearing before the Zoning Board of Appeals,

such amendment shall not be passed except by the favorable vote of 3/4 of all members of the County Board.

- c. *Written protests:* The original copy of a written protest must be filed with the Kane County Clerk not later than the Friday preceding the county board meeting. A copy of the written protests shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment. Notwithstanding any other provision of this section, if a map amendment is proposed solely to correct an error made by the county as a result of a comprehensive rezoning by the county, the map amendments may be passed at a county board meeting by a simple majority of the elected board.

4.7-4 Optional Revocation.

In the case of property zoned by the County Board of Kane County but not used within one year from date of said zoning, for purposes permitted in classification to which said property has been zoned, or, if the use of said property has been discontinued for a continuous period of three (3) years, the Zoning Board of Appeals shall have the power to institute proceedings, on its own motion, to consider the rezoning of said property to another classification. (Ord. No. 78-79, §§ 3, 4, 6-13-78; Ord. No. 79-229, § 1, 12-11-79; Ord. No. 82-66, 5-11-82; Ord. No. 92-187, 9-8-92; Ord. No. 97-214, 8-12-97; Ord. No. 97-240, 9-9-97; Ord. No. 02-81, 3-12-02)

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Sec. 4.8. Special uses.

4.8-1 Purpose.

The development and execution of this Ordinance is based upon the division of the County into districts within which districts the use of land and buildings, and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain 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 in the particular location.

To provide for the location of special classes of uses which are deemed desirable for the public welfare within a given district or districts, but which are potentially incompatible with typical uses herein permitted within them, a classification of "special uses" is hereby established.

4.8-2 Public Hearing.

Uses as hereinafter enumerated, which may be proposed for classification as "special uses", shall be considered at a public hearing before the Zoning Board, and its report of findings or fact and recommendations shall be made to the County Board following the public hearing; provided, that the County Zoning Board, in its report of findings or facts and recommendations to the County Board, shall not recommend a special use unless the Zoning Board shall find:

- (a) That the establishment, maintenance or operation of the special use will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- (b) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
- (c) That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
- (d) That adequate utility, access roads, drainage and/or other necessary facilities have been or are being provided;
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets and roads;
- (f) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the County Board pursuant to the recommendations of the Zoning Board of Appeals.

4.8-3 Conditions and Guarantees.

Prior to the granting of any special use, the Zoning Board may recommend and the County Board shall stipulate such conditions and restrictions, upon the establishment, location, construction, maintenance and operation of the special use as is deemed necessary for the protection of the public health, safety and welfare. In all cases in which special uses are granted, the County Board shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

It shall be required that a detailed plat of all improvements (site plan) shall be submitted to the Zoning Board of Appeals for approval or amendment at the public hearing. Such plat, when approved by the County Board, shall become a part of this Ordinance and development of the site shall be in accordance with said plat. Minor

APPENDIX B-ZONING

variations in the development of the approved plat may be authorized by the Development Committee.

4.8-4 Effect of Denial of a Special Use.

No application for a special use, which has been denied wholly or in part by the County Board, shall be resubmitted for a period of one year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Zoning Board or County Board.

4.8-5 Revocation.

In any case where a special use has not been established (substantially under way) within one year from the date of granting thereof, then, without further action by the County Board, the special use or authorization thereof shall be null and void, unless in the opinion of the Zoning Enforcing Officer, circumstances beyond the control of the permittee indicate that establishment of the use has been impossible.

If the special use has been established and subsequently discontinued, the Zoning Board of Appeals shall have the power to institute proceedings on its own motion to consider revocation of said special use.

4.8-6 Action by the County Board

a. A Special Use may be passed at a county board meeting by a simple majority of the elected county board members.

Sec. 4.9. Fees.

4.9-1 Fee Schedule.

The fee schedule for activities associated with the enforcement of the requirements of this Zoning Ordinance shall be established by the Kane County Board, as amended from time to time.

4.9-2 Exemptions.

None of the fees established by the Kane County Board shall be collected from any municipal, public or governmental body or corporation. (Ord. No. 97-240, 9-9-97)

Sec. 4.10. Enforcement and penalties.

4.10-1 Any person, firm, company or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of the ordinance, shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each offense. Each week that a violation remains uncorrected constitutes a separate offense.

4.10-2 In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Ordinance, the proper authorities of the County, or any person, the value or use of whose property is or may be affected by such violation, in addition to other remedies, may institute any appropriate action or proceedings in the circuit court:

- (a) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
- (b) To restrain, correct or abate such violation;
- (c) To prevent the occupancy of said building, structure or land; or
- (d) To prevent any illegal act, conduct, business or use in or about the premises. (Ord. No. 76-29, 3-9-76;

APPENDIX B-ZONING

Ord. No. 94-79, 4-12-94; Ord. No. 97-240, 9-9-97)

ARTICLE V. GENERAL PROVISIONS

Sec. 5.1. Interpretations, purposes and conflicts.

In interpreting and applying the provisions of this Ordinance, they shall be held to being the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.

Due allowance shall be made for existing conditions, the conservation of property values and the directions of building development to the best interests of the entire County of Kane.

It is not intended by this Ordinance to interfere with or abrogate or annul any ordinance, resolution, rules, regulations or permits, previously adopted or issued and not in conflict with any of the provisions of this Ordinance relative to the use of buildings, structures or land, nor is it intended by this Ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between parties; provided, however, that wherever this Ordinance imposes a greater restriction upon the use of buildings, structures, land, or requires greater setback, then the provisions of this Ordinance shall control.

Sec. 5.2. Conflicting ordinances.

All ordinances or resolutions or parts thereof in conflict with the provisions herein set forth are hereby repealed insofar as they conflict.

Sec. 5.3. Validity.

- a. Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid.
- b. No section, clause or provision of this Ordinance is intended, nor shall be construed, to be contrary to the Federal Fair Housing Act as amended. (42 USC 3601 et seq.), including but not limited to those provisions contained in the Federal Fair Housing Act which may apply to "group homes" as defined herein. (Ord. No. 90-176, 8-14-90)

Sec. 5.4. Scope of regulations.

5.4-1 Things regulated.

Hereafter outside the limits of cities, villages and incorporated towns, the erection of any new building or structure, or the relocation, enlargement or structural alteration of any existing building or structure, or any change in use or new or additional use made of any tract of land or existing building or structure:

- a. Shall be for only those principal uses as permitted in the district in which such building, structure or land is located, including any use or activity customarily incidental or accessory thereto unless otherwise restricted or prohibited;
- b. Shall conform to the provisions of this Ordinance concerning population density;
- c. Shall provide and preserve the required setback distance from adjoining roads or streets, the required side-yards, and the required parking space;
- d. Shall observe the regulations of the Illinois Department of Transportation, Division of Highways, concerning "freeways"; and the Kane County Division of Transportation Access Control Regulations;

Exhibit 11

KANE COUNTY DEVELOPMENT DEPARTMENT
 Zoning Division, Kane County Government Center
 719 Batavia Avenue
 Geneva, Illinois 60134
 Office (630) 444-1236 Fax: (630) 232-3411

Received Date

**APPLICATION FOR ZONING MAP AMENDMENT
 AND/OR SPECIAL USE**

Instructions:

To request a map amendment (rezoning) for a property, complete this application and submit it with all required attachments to the Subdivision and Zoning Division.

When the application is complete, we will begin the review process.

The information you provide must be complete and accurate. If you have a question please call the subdivision and zoning division, and we will be happy to assist you.

1. Property Information:	Parcel Number (s): 08-03-100-009; 05-34-300-032; 05-34-400-025
	Street Address (or common location if no address is assigned): 41W400 Silver Glen Road, St. Charles, IL 60175

2. Applicant Information:	Name Maxxam Partners, LLC	Phone (630) 513-9800
	Address c/o Andrew E. Kolb, Esq. & F. Keith Brown	Fax (630) 513-9802
	Meyers & Flowers, LLC 3 N. Second Street, Suite 300 St. Charles, IL 60174	Email akolb@vklawfirm.com

3. Owner of record information:	Name Glenwood Academy, an Illinois not-for-profit corporation	Phone (708) 754-0175
	Address c/o Mary Hollie, President & CEO, Glenwood Academy	Fax (708) 754-0175
	500 West 187th Street, Glenwood, IL 60425	Email mhollie@glenwoodschoool.org

Zoning and Use Information:

2040 Plan Land Use Designation of the property: Institutional / Private Open Space

Current zoning of the property: F District-Farming

Current use of the property: Vacant- Formerly Glenwood School

Proposed zoning of the property: F District - Farming. No proposed change

Proposed use of the property: Private-pay alcoholism and substance abuse treatment facility

If the proposed Map Amendment is approved, what improvements or construction is planned? (An accurate site plan may be required)

Attachment Checklist

- Plat of Survey prepared by an Illinois Registered Land Surveyor.
- Legal description
- Completed Land Use Opinion application (Available in pdf form at www.kanedupageswed.org/luo.pdf), as required by state law, mailed to: The Kane Dupage Soil and Water Conservation District, 545 S. Randall Road, St. Charles, IL 60174.
- Endangered Species Consultation Agency Action Report (available in pdf form at www.dnr.state.il.us/orep/nrc/aar.htm) to be filed with the Illinois Department of Natural Resources.
- List of record owners of all property adjacent & adjoining to subject property
- Trust Disclosure (if applicable)
- Findings of Fact Sheet
- Application fee (make check payable to Kane County Development Department)

I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.

Mary H. Hollis 8/27/15
Record Owner Date

Andrew Kar, Esq. 8/27/15
Applicant or Authorized Agent Date

Findings of Fact Sheet – Map Amendment and/or Special Use

- The Kane County Zoning Board is required to make findings of fact when considering a rezoning. (map amendment)
- You should "make your case" by explaining specifically how your proposed rezoning relates to each of the following factors.

Maxxam Partners, LLC

Name of Development/Applicant

8/28/15

Date

1. How does your proposed use relate to the existing uses of property within the general area of the property in question?
See attached Rider.

2. What are the zoning classifications of properties in the general area of the property in question?
See attached Rider.

3. How does the suitability of the property in question relate to the uses permitted under the existing zoning classification?
See attached Rider.

4. What is the trend of development, if any, in the general area of the property in question?
See attached Rider.

5. How does the projected use of the property, relate to the Kane County 2040 Land Use Plan?
See attached Rider.

Findings of Fact Sheet – Special Use



Special Use Request _____

Date _____

- The Kane County Zoning Board is required to make findings of fact when considering a special use.
- Special Uses shall be considered at a public hearing before the Zoning Board of Appeals. In its report of findings of facts, recommendations shall be made to the County Board following the public hearing. The Zoning Board will not recommend a special use unless the following items are addressed:

6. Explain how the establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
See attached Rider.

7. Explain how the special use will not be injurious to the use, enjoyment and value of other property in the immediate vicinity.
See attached Rider.

8. Explain how the special use will not impede the normal, orderly development and improvement of the surrounding property.
See attached Rider.

9. Will adequate utility, access roads, drainage and other necessary facilities be provided?
Please explain:
See attached Rider.

10. Will adequate measures be provided for ingress and egress so designed to minimize the traffic and congestion? Please explain:

See attached Rider.

11. Will the special use conform to the regulations of the district in which it is located? Please explain:

See attached Rider.

Exhibit 12

BIOGRAPHICAL DATA - JOSEPH H. ABEL
(City and Regional Planner)
200 Forest Avenue, Glen Ellyn, Illinois 60137

EDUCATION

University of Illinois - BS City and Regional Planning (Minor Architecture)	1959
University of Chicago - Center for Urban Studies	1965 - 1966
University of Oklahoma - Economic Development Institute Graduate (Summer Program)	1981 - 1984

EXPERIENCE

- JOSEPH H. ABEL & ASSOCIATES
GLEN ELLYN, ILLINOIS - PRESIDENT 1987 - DATE

Responsible for establishing a consulting firm in 1987 to provide planning services on a limited number of special projects and expanded to a full service firm January 15, 1992. The firm specializes in Land Use Planning, Site Planning, Zoning, and Economic Development. Mr. Abel has 52 years of experience as a public planner and private consultant and has been in charge of comprehensive urban planning, central business district planning, park design, community development planning, land planning, park master planning, tax increment financing studies, health care facility planning, redevelopment studies, adaptive reuse studies, land use analyses, zoning and subdivision regulations, space needs analyses, zoning testimony and strategic planning for economic development, to public and private clients.

- THE ECONOMIC DEVELOPMENT COMMISSION OF THE CITY OF CHICAGO
CHICAGO, ILLINOIS - EXECUTIVE DIRECTOR 1987 - 1992

Responsible for establishing the City's public/private partnership program to advise the Mayor on economic development issues. Work program included: identifying and evaluating the development potential of industrial park sites, preparing the City's strategic plan for economic development, assisting in the preparation of the industrial land use component of the comprehensive plan, conducting an ombudsman program to assist businesses, developing the economic development advertising and marketing program, and establishing an International Trade Council to provide export assistance and foreign investments. Annual budget of 1.3 million, staff of 15.

- DUPAGE COUNTY, WHEATON, ILLINOIS
DUPAGE COUNTY REGIONAL PLANNING COMMISSION - DIRECTOR 1970 - 1987

Responsible for establishing a new planning program in a rapidly growing county that increased in population from 492,000 in 1970 to 750,000 by 1987. Directed all phases of comprehensive land use and transportation planning, zoning enforcement and administration, economic development and Community Development Block Grant programs. Expert witness for County on zoning cases, staff of 40.

- CARL L. GARDNER & ASSOCIATES, INC.
CHICAGO, ILLINOIS - PROJECT DIRECTOR

1962 - 1970

Comprehensive planning for public and private clients. Included central business district plans, zoning and subdivision standards, and capital improvement programs.

Municipalities

Counties

Cary, Illinois
Deerfield, Illinois
Fox River Grove, Illinois
Greendale, Wisconsin
Indian Head Park, Illinois
Morris, Illinois
Oak Brook, Illinois
Streamwood, Illinois
Worth, Illinois

Grundy County, Illinois (incl.
13 municipalities)
Iroquois County, Illinois
Kankakee County, Illinois
Kendall County, Illinois (incl.
3 municipalities)

Urban Renewal Projects

Waukegan, Illinois Community Renewal Program
Elgin, Illinois Central Area Redevelopment Plan

Expert Witness

Zoning and condemnation cases - Public and private clients

Feasibility Studies

Public and private clients

Site Planning

Residential, Commercial and Industrial developments

- LAKE COUNTY REGIONAL PLANNING COMMISSION
WAUKEGAN, ILLINOIS - PLANNER

1959 - 1962

Long-range Planning Section. Use of Land Report, Thoroughfare Plan, Population Projections, Land Use Plan and Zoning District Map.

- CITY OF CHICAGO COMMUNITY CONSERVATION BOARD

SUMMER 1958

Neighborhood conservation plans

TEACHING

Northern Illinois University - DeKalb, Illinois
Adjunct Professor - Master of Public Administration Program

1982 - Date

University of Illinois - Basic Economic Development Course
Department of Geography and Mid-America Economic Development Council

1985 - Date

AWARDS

Distinguished Service Award - Illinois Chapter, America Planning Association

AFFILIATIONS

American Planning Association	1978 - Date
American Institute of Certified Planners	1978 - Date
Urban Land Institute (Sustaining Member)	1962 - Date
Member, Curriculum Review Committee (Planning Council)	
University of Illinois, Urbana - Dept. City and Regional Planning	1982 - Date
Du Page County Environmental Commission	1996 - Date