Resolution of the County Board of Kankakee County, Illinois

RE: ZBA CASE #17-07; REZONING FROM A1-AGRICULTURAL DISTRICT TO A2-AGRICULTURAL ESTATES DISTRICT

WHEREAS, an application pursuant to the terms of the Kankakee County Zoning Ordinance, has been filed by Gary A. Hase, property owner and applicant in the Office of the County Clerk of Kankakee County for a Rezoning from A1-Agricultural District to A2-Agricultural Estates District on a parcel legally described herein Exhibit A, a copy of which is attached; and,

WHEREAS, the Zoning Board of Appeals held a duly noticed public hearing, on the application December 18, 2017 and from the testimony and evidence presented findings were made as described in Exhibit B, a copy is attached and the ZBA recommends that the request of Gary A. Hase, property owner and applicant, be approved; and,

WHEREAS, the Planning, Zoning, and Agriculture Committee (PZA), at its regularly scheduled and duly noticed meeting of December 20, 2017, having reviewed, discussed and considered the matter, has approved the request and adopted the findings and recommendation of the Zoning Board of Appeals, Exhibit B; and,

WHEREAS, all matters required by law of the State of Illinois and the Zoning Ordinance of Kankakee County have been completed; and,

WHEREAS the County Board at its regularly scheduled meeting of January 9, 2018 after review, discussion, and consideration, agrees with the findings of the Zoning Board of Appeals and committee minutes of the PZA Committee, and finds that the conclusions expressed are both reasonable and rationally supported by the evidence presented, and the rezoning will not be detrimental to the public health, safety, and economic and general welfare.

NOW, THEREFORE, be it resolved by the Kankakee County Board, State of Illinois as follows:

1. The findings of the Zoning Board of Appeals are hereby approved, confirmed, ratified, and adopted and the conclusions of the Planning, Zoning and Agriculture Committee based upon those findings are rational and in the public interest.

2. The findings, conclusions and recommendation expressed in the minutes of the Planning, Zoning, and Agriculture Committee meeting of December 20, 2017 are also supported by the record and are in the public interest and are also approved, confirmed, ratified and adopted.
3. The Rezoning from A1-Agricultural District to A2-Agricultural Estates District be approved on a parcel legally described in Exhibit A, a copy of which is attached herein and made a part hereof.

PASSED and adopted this 9th day of January, 2018.

Andrew H. Wheeler, County Board Chairman

ATTEST:

Dan Hendrickson, County Clerk
EXHIBIT A  (ZBA CASE#17-07)

LEGAL DESCRIPTION:

THE WEST 250.10 FEET OF THE FOLLOWING: A PART OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 32 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, KANKAKEE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: BEGINNING AT A RAILROAD SPIKE AT THE SOUTHWEST CORNER OF SAID WEST HALF; THENCE NORTH 01 DEGREES 15 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF SAID EAST HALF A DISTANCE OF 1,730.60 FEET TO AN IRON ROD; THENCE NORTH 88 DEGREES 45 MINUTES 00 SECONDS EAST A DISTANCE OF 664.23 FEET TO AN IRON ROD ON THE EAST LINE OF SAID WEST HALF; THENCE SOUTH 1 DEGREE 14 MINUTES 00 SECONDS EAST A DISTANCE OF 1,730.24 FEET TO AN IRON ROD AT THE SOUTHEAST CORNER OF SAID WEST HALF; THENCE SOUTH 88 DEGREES 43 MINUTES 10 SECONDS WEST A DISTANCE OF 663.73 FEET TO THE POINT OF BEGINNING, CONTAINING 9.936 ACRES, MORE OR LESS, SUBJECT TO RIGHTS-OF-WAY FOR ROADS, DRAINAGE AND EASEMENTS APPARENT OR OF RECORD.
FINDINGS OF FACT AND RECOMMENDATION
OF THE KANKAKEE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Kankakee County Zoning Board of Appeals (ZBA) concerning an application by the owner and applicant Gary A. Hase in ZBA Case No. 17-07. The applicant and owner is requesting a rezoning from A1- Agriculture to A2-Agriculture Estate to allow the division of a 9.936 acre parcel of wooded land from his 26.42 acre parcel for the purpose of creating a home site. The remaining acreage would continue to be used for agricultural purposes.

The property is located on the north side of 7000 N Road approximately a quarter mile east of 16000 N Road in Yellowhead Township. The area surrounding the property contains many large lot residential uses and a golf course, as you radiate outward the hamlet of Sherburnville is also nearby.

After due notice required by law, the ZBA held a public hearing on this case on December 18, 2017 in the County Board Room, 4th Floor, Kankakee County Administration Building, Kankakee, Illinois, and hereby report their findings of fact and their recommendation as follows:

Site Information: See Staff Report (attached herewith).

Public Comments: There was no public comment. (Refer to transcripts)

Analysis of Nine Standards: After considering all the evidence and testimony presented at the public hearings, the Board makes the following analysis of the nine (9) standards listed in Section 17.03.E3 (Standards for Map Amendments) of the Kankakee County Zoning Ordinance that must all be found in the affirmative prior to recommending granting of the petition.

1. That the proposed rezoning is consistent with the purpose and intent of the Zoning Ordinance.

The Board finds that the proposed rezoning/amendment would designate the western 250 feet of the applicant’s property as A2-Agricultural Estate District. The zoning change would be consistent with the stated purposes of the A2-Agricultural Estate District in that it will allow the applicant to sell the western portion of the property to be developed with low-density residential use in an area of the county where soil and topographical conditions are best adapted to such residential uses. Specifically, the portion of the property to be rezoned is almost entirely composed of heavy woods that are not suitable or
currently used for agricultural use. This is topographically distinct from the eastern portion of the property, which is currently used for productive agriculture and will remain zoned A1-Agriculture District.

2. **That the proposed rezoning is consistent with the goals, objectives, and policies of the County Comprehensive Plan.**

The Board finds that the proposed rezoning/amendment will permit single-family residential usage to be developed in a rural area of scattered, low density residential development on property not suited or currently used for productive agriculture due to its topography. The portion of the property sought to be rezoned is heavily wooded, making it a parcel with significant natural beauty but not available for agricultural production.

3. **That the proposed rezoning is compatible with the existing uses of property and the zoning classification of property within the general area.**

The Board finds that the property which is the subject of the proposed rezoning/amendment is situated in a segment of Yellowhead Township near other parcels zoned A2-Agricultural Estate District. These existing parcels allow for scattered, low density residential uses in a largely agricultural area. Locating limited residential uses on a largely wooded area will have minimal impact on the agricultural operations situated on either the western (eastern) portion of the property or other neighboring properties currently engaged in productive agricultural use.

4. **That the permitted uses in the zoning classification being requested will not substantially increase the level of congestion on public rights-of-way.**

The Board finds the level of congestion on the public rights-of-way will not be increased significantly by the proposed rezoning/amendment since the property could contain only limited low-density residential use.

5. **That the subject property is suitable for the permitted uses under the existing zoning classification.**

The Board finds that the property is not suitable for agricultural uses permitted by the A1-Agricultural District due to its topography and heavily wooded nature.
6. **That the subject property is suitable for the permitted uses under the proposed zoning classification.**

The Board finds that portion of the property to be rezoned is well suited to the low-density residential purposes permitted by the A2-Agricultural Estate District because it is heavily wooded and contains great natural beauty. It is also situated near other residences on properties designated as A2-Agricultural Estate District scattered throughout the immediate surrounding area.

7. **Is the proposed rezoning/amendment outside one and a half miles of a municipality?**

The Board finds that the proposed rezoning is not within one and one half mile of a municipality.

8. **That the soils are suitable and capable of supporting residential use?**

The Board finds that as demonstrated by the presence of other low-density residential uses scattered in the nearby proximity of the property to be rezoned, the soils of the property are suitable and capable of supporting residential use.

9. **That the proposed rezoning / amendment is in the public interest?**

The Board finds that the proposed rezoning/amendment will permit the owner to subdivide and develop limited residential uses on the western portion of the property, which is heavily wooded and not suitable for agricultural use, from the eastern portion, which is suitable and currently used for productive agriculture. Because the eastern portion, which will remain zoned A1-Agriculture District, is under 20 acres, a farm homestead will not be permitted thereon, thus limiting any future additions of residential use and resulting loss of farmland on that portion of the property.

**Recommendation:** We find that the proposed rezoning requested does meet all the standards for recommending granting as found in Section 121.37 of the Kankakee County Zoning Ordinance and that such request is in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the request to change the zoning district classification of the property described above from A1 - Agriculture to A2 - Agricultural Estate be approved.

**Roll Call Vote:** A motion was made to approve the rezoning. The roll call vote was five (5) member for the motion to recommend approval, zero (0) opposed. The motion was successful.
Respectfully submitted this 18th day of December 2017 by the Kankakee County Zoning Board of Appeals.

John Featherling, Chairman – Aye
Gene Rademacher – Aye
David Deyoung – Aye
William Hemm – Absent
Edwin Meents – Aye
William Sawyer – Absent
Elizabeth Scanlon – Aye

Exhibit A – Location Map, Yellowhead Township
ZBA CASE 17-07

STAFF REPORT

Gary A. Hase (Owner & Applicant)
Rezone A1 to A2
P.I. No. 01-04-25-300-033
Yellowhead Township

Kankakee County Planning Department
199 E. Court Street, Room 201
Kankakee, IL 60901
Phone: 815-937-2940 Fax: 815-937-2974
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Prepared By: Delbert Skimerhorn, Sr., AICP, GISP, Planner / GIS Specialist
ZBA Case 17-07

Background:
The owner and applicant, Gary A. Hase, would like to divide 9.935 acres of wooded land from his 26.42 acre parcel for the purpose of creating a home site. The remaining acreage would continue to be used for agricultural purposes.

The property is located on the north side of 7000 N Road approximately a quarter mile east of 16800 N Road in Fellowhead Township. The area surrounding the property has many large lot residential uses, a golf course, and as you radiate outward, the hamlet of Sherburnville.

An aerial photograph of the general area can be seen on the left.

Finding of Fact Responses - Rezoning

The following sections highlight the Petitioner's responses to the findings and the Planning Department's comments for the proposed rezoning to A2-Agricultural Estate:

A. How is the proposed rezoning/amendment consistent with the purpose and intent of the zoning ordinance?

Petitioner's Response: "The proposed rezoning/amendment would designate the western 250 feet of the applicant's property as A2-Agricultural Estate District. The zoning change would be consistent with the stated purposes of the A2-Agricultural Estate District in that it will allow the applicant to sell the western portion of the property to be developed with low-density residential use in an area of the county where soil and topographical conditions are best adapted to such residential uses. Specifically, the portion of the property to be rezoned is almost entirely composed of heavy woods that are not suitable for currently used for agricultural use. This is topographically distinct from the eastern portion of the property, which is currently used for productive agriculture and will remain zoned A1-Agriculture District."

Planning Department Analysis:

The purpose of the Kankakee County Zoning Ordinance (Section 121-2) is to assure the orderly growth in the county. More specifically as follows:

1. Lands best suited for the pursuit of agriculture be protected from the hazardous and unplanned intrusions of urban uses.
2. Areas designated for expansion of residential development be suitably located in relationship to business, commercial, and industrial uses.

The purpose of the A2 District, as stated in Section 121-100 of the Kankakee County Zoning Ordinance, is to promote low density residential uses of a rural character in areas of the county where soil and topographical conditions are best adapted to residential uses.
It also states that this district should be located on areas with the least productive farmland or near an existing farmstead.

It is the opinion of staff that this proposal meets the purpose of both the Zoning Ordinance and the A2-Agriculture Estate District. The parcel is large, nearly 10 acres, and is heavily wooded. In addition, the parcel is located in an area inundated with large lot residential uses.

B. HOW IS THE PROPOSED REZONING / AMENDMENT CONSISTENT WITH THE GOALS, OBJECTIVES, AND POLICIES OF THE COUNTY COMPREHENSIVE PLAN?

Petitioner's Response: "The proposed rezoning/amendment will permit single-family residential usage to be developed in a rural area of scattered, low density residential development on property not suited or currently used for productive agriculture due to its topography. The portion of the property sought to be rezoned is heavily wooded, making it a parcel with significant natural beauty but not available for agricultural production."

Planning Department Analysis: A pivotal goal of the Comprehensive Plan is to focus all non-agricultural development into one of the County's municipalities. A non-agricultural parcel developed in a predominately agricultural area can have negative impacts on the agricultural community. These impacts can include nuisance complaints and conflicts with agricultural equipment on the roadways.

However, the Comprehensive Plan also realizes that there are circumstances where placing non-agricultural development in municipalities is not justifiable and not practical. When this occurs, this rural development should be placed on property that is not appropriate for farming, such as wooded areas, and should be clustered near existing development.

That being said, the subject site lies near one of the Plan's designated "Hamlets" (Shumwayville) and is an area inundated with large lot residential / non-agricultural related properties. Therefore the rezoning of this property is consistent with the Goals and Objectives of the Plan.

C. EXPLAIN HOW THE PROPOSED REZONING / AMENDMENT WILL BE COMPATIBLE WITH THE EXISTING USES OF PROPERTY AND THE ZONING CLASSIFICATION OF PROPERTY WITHIN THE GENERAL AREA OF THE PROPERTY IN QUESTION.

Petitioner's Response: "The property which is the subject of the proposed rezoning/amendment is situated in a segment of Yellowhead Township near other parcels zoned A2-Agriculture Estate District. These existing parcels allow for scattered, low density residential uses in a largely agricultural area. Locating limited residential uses on a largely wooded area will have minimal impact on the agricultural operations situated on either the western (eastern) portion of the property or other neighboring properties currently engaged in productive agricultural use."
Planning Department Analysis:

As stated previously, the surrounding area is inundated with large lot residential uses, a golf course, and the hamlet of Sherburnville. Several of these parcels are zoned A2-Agricultural Estate and a new subdivision on the west side of the golf course is zoned RE-Rural Estate. These facts make the proposed rezoning and use of the property compatible with the surrounding uses.

D. Explain how the permitted uses in the zoning classification being requested will not substantially increase the level of congestion on the public right-of-way.

Petitioner's Response: "The level of congestion on the public rights-of-way will not be increased significantly by the proposed rezoning/amendment since the property could contain only limited low-density residential use."

Planning Department Analysis:
The impact to congestion would be minimal as only one single-family home would be permitted on the property.

E. Is the subject property suitable for the permitted uses under the existing zoning classification?

Petitioner's Response: "The property is not suitable for agricultural uses permitted by the A1-Agricultural District due to its topography and heavily wooded nature."

Planning Department Analysis:
Staff concurs with the applicants finding.

F. Is the subject property suitable for the permitted uses under the proposed zoning classification?

Petitioner's Response: "The portion of the property to be rezoned is well suited to the low-density residential purposes permitted by the A2-Agricultural Estate District because it is heavily wooded and contains great natural beauty. It is also situated near other residences on properties designated as A2-Agricultural Estate District scattered throughout the immediate surrounding area."

Planning Department Analysis:
The A2 District permits property to be used for single family residential purposes and associated accessory uses and structures. It appears that the parcel will be suitable for the uses listed in the A2 District.
C. Is the proposed rezoning/amendment outside one and a half miles of a municipality?

Petitioner's Response: "Yes. The proposed rezoning/amendment is situated to the east of the Village of Grant Park, over one and a half miles outside of this Village's corporate limits and those of any other municipality."

Planning Department Analysis:

Staff concurs with the petitioner's finding.

H. Are the soils suitable and capable of supporting residential use?

Petitioner's Response: "Yes. As demonstrated by the presence of other low-density residential uses scattered in the nearby proximity of the property to be rezoned, the soils of the property are suitable and capable of supporting residential use."

Planning Department Analysis:

Staff is not aware of any issues with the soils in this area or their ability to support residential use.

I. Explain how the proposed rezoning / amendment is in the public interest.

Petitioner's Response: "The proposed rezoning/amendment will permit the owner to subdivide and develop limited residential uses on the western portion of the property, which is heavily wooded and not suitable for agricultural use, from the eastern portion, which is suitable and currently used for productive agriculture. Because the eastern portion, which will remain zoned A1-Agriculture District, is under 20 acres, a farm homestead will not be permitted thereon, thus limiting any future additions of residential use and resulting loss of farmland on that portion of the property."

Planning Department Analysis:

The subject property is located in an area of existing large lot, 5 acre plus, residential properties and is very close to the Hamlet of Sherburnville. In addition, the property is heavily wooded and in agricultural production. The Board will need to decide based on all of the testimony at the hearing whether this request is in the public's interest.
1. Reference:
   - Hearing Date: November 20, 2017
   - Applicant's Name: Gary A. Hase
   - Land Owner's Name: Same
   - Legal Counsel: David M. Baron

2. Location:
   - Property Location: North side of 7000 N Road approximately 1/4 mile east of 16000 E Yellowhead Township
   - Road: 7000 N Road
   - Township: Yellowhead Township
   - Parcel Number: 01-04-25-90-033 (part)
   - 911 Address: No address assigned
   - Existing Land Use: Woodland
   - Existing Zoning: A1-Agriculture
   - Applicant Request: Rezoning to A2-Agriculture Estate

3. Dimensions:
   - Size of Parcel: 26.42 Acres (current) / 9.936 Acres (proposed)
   - Road Frontage: 250 feet
   - Parcel Depth: 1730.6 feet
   - Parcel History: Created 2005

4. Existing Land Use Features:
   - Public Road: 7000 N Road
   - Floodplain: None
   - Wetland: None

5. Surrounding Zoning:
   - North: A1-Agriculture, A2-Agriculture Estate
   - West: A1-Agriculture, Re-Rural Estate
   - South: A1-Agriculture, A2-Agriculture Estate
   - East: A1-Agriculture, A2-Agriculture Estate

6. Surrounding Land Use:
   - North: Residential, Agriculture
   - West: Residential
   - South: Residential
   - East: Agriculture, Residential

Subject site looking north from 7000 W Road.

7000 N Road looking east from subject site.
7. Municipal Planning Boundary:
   Nearest Municipality: Grant Park
   Distance: 2 miles.

8. Comprehensive Plan Designation:
   Kankakee County: Agricultural Conservation Area
   Municipality: N/A
   Township: N/A

9. Distance to Public Services and Facilities:
   Police Protection: Kankakee County - 20 miles.
   Fire Protection: Yellowwood Township - 2 miles.
   School District: Grant Park - 5 miles.
   Sewer: Grant Park - 2 miles.
   Water: Grant Park - 2 miles.
   Collector Road: County Highway 13 (1/4 mile west)

10. Miscellaneous Information:
    County Board District: One (1) - Mr. Hess.