Resolution #2018-01-09-8

Resolution of the County Board of Kankakee County, Illinois

RE: ZBA CASE #17-10; REZONING FROM A1-AGRICULTURAL DISTRICT TO A2-AGRICULTURAL ESTATE DISTRICT

WHEREAS, an application pursuant to the terms of the Kankakee County Zoning Ordinance, has been filed by Ryan & Ashley Romero, Brian Stevenson, and Clyde Davis, property owners and applicants in the Office of the County Clerk of Kankakee County for a Rezoning from A1-Agricultural District to A2-Agricultural Estate 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 Ryan & Ashley Romero, Brian Stevenson, and Clyde Davis, property owners and applicants, 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 Estate 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
LEGAL DESCRIPTION:

A PART OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 31 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN IN KANKAKEE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89 DEGREES 33 MINUTES 10 SECONDS WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 362.00 FEET TO A P.K. NAIL, SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 33 MINUTES 10 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 183.00 FEET TO A P.K. NAIL; THENCE NORTH 00 DEGREES 58 MINUTES 15 SECONDS WEST ON A LINE PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 362.00 FEET TO AN IRON ROD; THENCE NORTH 89 DEGREES 33 MINUTES 10 SECONDS EAST A DISTANCE OF 183.00 FEET TO AN IRON ROD; THENCE SOUTH 00 DEGREES 58 MINUTES 15 SECONDS EAST A DISTANCE OF 362.00 FEET TO THE POINT OF BEGINNING, CONTAINING 1.52 ACRES MORE OR LESS SITUATED IN THE COUNTY OF KANKAKEE AND STATE OF ILLINOIS. PIN: 08-07-08-400-022

A PART OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 31 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, KANKAKEE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE SOUTH 89 DEGREES 33 MINUTES 10 SECONDS WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 545.00 FEET TO A POINT, SAID POINT TO BE KNOWN AS THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 33 MINUTES 10 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 260.00 FEET TO A POINT; THENCE NORTH 00 DEGREES 58 MINUTES 15 SECONDS WEST A LINE PARALLEL WITH THE EAST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 362.00 FEET TO A POINT; THENCE NORTH 89 DEGREES 33 MINUTES 10 SECONDS EAST A DISTANCE OF 260.00 FEET TO A POINT; THENCE SOUTH 00 DEGREES 58 MINUTES 15 SECONDS EAST A DISTANCE OF 362.00 FEET TO THE POINT OF BEGINNING. PIN: 08-07-08-400-025

A PART OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 31 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN IN KANKAKEE COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SAID SECTION 8; THENCE SOUTH 89 DEGREES 33 MINUTES 10 SECONDS WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 8, A DISTANCE OF 362.00 FEET; THENCE NORTH 00 DEGREES 58 MINUTES 15 SECONDS WEST, A DISTANCE OF 362.00 FEET; THENCE NORTH 89 DEGREES 33 MINUTES 10 SECONDS EAST, A DISTANCE OF 362.00 FEET TO THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 8; THENCE SOUTH 00 DEGREES 58 MINUTES 15 SECONDS EAST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 8, A DISTANCE OF 362.00 FEET TO THE POINT OF BEGINNING. SUBJECT TO RIGHTS OF WAY OF ROADS, DRAINAGE AND EASEMENTS APPARENT OR OF RECORD. PIN: 08-07-08-400-016
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 owners and applicants Brian Stevenson, Clyde Davis, and Ryan and Ashley Romero in ZBA Case No. 17-10. The owners of the following adjacent properties are requesting a map amendment to change the zoning of their properties from A1-Agriculture to A2-Agricultural Estate to correct a compliance issue that was created in 2000 when the parcels were created.

Parcel 08-07-08-400-016 Clyde Davis 4028 N 11000 W Road.
Parcel 08007-08-400-022 Brian Stevenson 11035 W 4000 N Road
Parcel 08-07-08-400-025 Ryan & Ashley Romero 11101 W 4000 N Road

Parcel -025 first brought this situation to the Department’s attention in 2007 when the owner at that time applied for a permit to install a fence. After a thorough investigation, it was discovered that these properties and several others in the County had all had homes built on large, compliant, acreage, and then divided into smaller parcels immediately after. The same real estate agents name appears on many of these documents. The permit for the fence was denied and all parcels involved were flagged in the Department’s records to avoid the issuance of further permits until this matter is corrected. This request is an attempt to correct this situation on these three parcels.

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. See transcripts for details.

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 rezoning to A-2 Agricultural Estate will put these 3 residential properties in a proper zoning category for future maintenance, additions and sale.

The dissenting vote offered no comment.

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 bring these properties into an A-2 Zoning category which fits the properties’ requirements and that of the area.

The dissenting vote offered no comment.

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 3 single family residences are near or adjacent to other residences.

The dissenting vote offered no comment.

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 there is no proposed change in the properties’ uses.

The dissenting vote offered no comment.

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 because if a residence is destroyed by fire or weather they cannot be rebuilt under current zoning.

The dissenting vote offered no comment.

6. That the subject property is suitable for the permitted uses under the proposed zoning classification.

The Board finds that that the property is suitable.
The dissenting vote offered no comment.

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.

The dissenting vote offered no comment.

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

The Board finds that the soils are capable of supporting residential use.

The dissenting vote offered no comment.

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

The Board finds that the A-2 Zoning will allow the residences to be rebuilt, expanded and will increase property values accordingly.

The dissenting vote offered no comment.

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 properties 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 four (4) members for the motion to recommend approval, one (1) 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 – Nay**
**William Sawyer – Absent**
**Elizabeth Scanlon – Aye**
Exhibit A – Location Map, Salina Township
ZBA CASE 17-10

STAFF REPORT

Owners - Ryan & Ashley Romero, Brian Stevenson, & Clyde Davis
Rezone A1 to A2
P.I. Nos. 08-07-08-400-016,-022, & -025
Salina Township
The owners of the following adjacent properties are requesting a map amendment to change the zoning of their properties from A1-Agriculture to A2-Agricultural Estate to correct a compliance issue that was created in 2000 when the parcels were created.

Parcel 08-07-08-400-016 Clyde Davis 4028 N 11000 W Road
Parcel 08-07-08-400-022 Brian Stevenson 11035 W 4000 N Road
Parcel 08-07-08-400-025 Ryan & Ashley Romero 11101 W 4000 N Road

Parcel 025 first brought this situation to the Department's attention in 2007 when the owner at that time applied for a permit to install a fence. After a thorough investigation, it was discovered that these properties and several others in the County had all had homes built on large, compliant, acreage, and then divided into smaller parcels immediately after. The same real estate agent's name appears on many of these documents. The permit for the fence was denied and all parcels involved were flagged in the Department's records to avoid the issuance of further permits until this matter is corrected. This request is an attempt to correct this situation on these three parcels.

An aerial photograph of the general area can be seen on the left and a map and narrative explaining the division history of these properties can be found on page 2 of this report.

**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 rezoning to A2 Agricultural Estate will put these 3 residential properties in a proper zoning category for future maintenance, additions and sale."

Planning Department Analysis:

As stated in the background, the permits for these homes were issued when the properties were much larger and in compliance with lot size requirements. The immediate division of these properties after construction makes staff wonder if this was an attempt to circumvent the requirements of the ordinance. The board should ask itself, "Would we approve these lots for residential development if they were presented prior to the construction of the homes?"

However, the situation that created these parcels occurred 17 years ago and the "damage" if any has already occurred. The Board needs to determine what is best for these properties and their current owners while sending a strong message that circumvention of the County's regulations will not be tolerated.
Property History

Prior to January 4, 2000, the original parcel (blue), -004, was 40 +/- acres in size. On that date, the parcel was divided into 2 parcels, -013 (green) which was 30.5 +/- acres and -014 (green) which was 9.5 acres in size. Then on June 29, 2000, parcel -014 was further divided into two parcels -015 (red) (6.5 acres +/-) and parcel -016 (red) (3 acres +/-). It should be noted that parcel -016 was the first parcel divided that was under 5 acres in size and therefore the only parcel eligible for Plat Act Exemption #9.

On April 4, 2001 the properties were further divided. Parcel -018 was divided into parcels -020 (purple) (2 acres), -021 (purple) (5 acres), -018 (purple) (20 acres). Parcel -018 was immediately divided into parcels -024 (orange) (17.84 acres) and -025 (orange) (2 acres). Parcel -015 was divided into parcels -022 (orange) (1.5 acres) and -023 (orange) (5 acres).

The result of these divisions left parcels -020, -022, & -025 in violation of the Illinois Plat Act. These actions also left all of the parcels ineligible for home construction as they do not meet the 20 acre minimum lot size required by the ordinance for homes in the A1-Agriculture District.

The home on parcel -016 was permitted in 1999 while the property was still 40 acres in size. The home on parcel -020 was rezoned to A2-Agricultural Estate in 2006 (ZBA 06-11) along with parcels -021 and -023. The home on -025 was permitted while the parcel (-018) was still 20 acres in size. And the home on -022 was also permitted in 1999 when the parcel was 40 acres in size.
B. How is the proposed rezoning/amendment consistent with the goals, objectives, and policies of the County Comprehensive Plan?

Petitioner's Response: "It will bring these properties into an A-2 Zoning category which fits the properties' requirements and that of the area."

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, none of that happened here. Because actions were taken that may or may not have been designed to circumvent the County's ordinance, the Board never got the opportunity to determine where the construction of these homes fits the criteria of the ordinance or how they might impact agricultural operations in the area. The Board must now look at how these homes may have affected agriculture in the past 17 years and determine if rezoning the property is in the best interest of the public and the agricultural community.

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 3 single family residences are near or adjacent to other residences."

Planning Department Analysis:

The subject property is located in an area of existing large lot, 2 acre plus, residential properties. The property is already being used for residential purposes for the past 17 years. In addition, three (3) parcels immediately north of these were rezoned to A2 - Agricultural Estate in 2006.
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:** "There is no proposed change in the properties' uses."

**Planning Department Analysis:**

As no changes in the use of the property are anticipated, there would be no affect on the level of congestion in the public right-of-way and any negative consequences created by the addition of these homes have already been absorbed into the fabric of the neighborhood.

E. **IS THE SUBJECT PROPERTY SUITABLE FOR THE PERMITTED USES UNDER THE EXISTING ZONING CLASSIFICATION?**

**Petitioner's Response:** "No, because if a residence is destroyed by fire or weather they cannot be rebuilt under current zoning."

**Planning Department Analysis:**

The applicant is correct in their statement except that staff would like to point out that this issue is self inflicted and had the divisions and construction not occurred, the property would have been suitable for the permitted uses under the current zoning district.

F. **IS THE SUBJECT PROPERTY SUITABLE FOR THE PERMITTED USES UNDER THE PROPOSED ZONING CLASSIFICATION?**

**Petitioner's Response:** "Yes."

**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 parcels will be suitable for the uses listed in the A2 District.

G. **IS THE PROPOSED REZONING/AMENDMENT OUTSIDE ONE AND A HALF MILES OF A MUNICIPALITY?**

**Petitioner's Response:** "Yes."

**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."

Planning Department Analysis:

Staff is not aware of any issues with the soils in this area or their ability to support residential use. In addition, the homes have existed for 17 years with no issues that staff is aware of.

I. EXPLAIN HOW THE PROPOSED REZONING / AMENDMENT IS IN THE PUBLIC INTEREST.

Petitioner's Response: "A-2 Zoning will allow the residences to be rebuilt, expanded and will increase property values accordingly."

Planning Department Analysis:

The answer to this finding centers more around what would happen if the rezoning were not approved rather than if it was approved. If not approved, these homes would be allowed to remain but without any improvements or maintenance that would require a permit and would just slowly deteriorate until they become so dilapidated that removal is warranted. The Board should ask itself if allowing a situation like that to happen is in the public interest.
1. Reference:
   Hearing Date: December 19, 2017
   Applicant's name: Brian Stevenson, Clyde Davis, Ryan & Ashley Romero
   Land Owner's Name: Same
   Legal Counsel: Michael Donahue

2. Location:
   Property Location: 11000 & 11035 W 4000 N Rd & 4028 N 11000 W Rd, Bonfield, IL
   Township: Salina Township.
   Parcel Number: 08-07-08-400-016, -022, -025
   911 Address: 11000 & 11035 W 4000 N Rd & 4028 N 11000 W Rd, Bonfield, IL
   Existing Land Use: Residential
   Existing Zoning: A1-Agriculture
   Applicant Request: Rezoning to A2-Agriculture Estate

3. Dimensions:
   Size of Parcel: 1.52, 2.16, & 3 acres
   Road Frontage: 1147 feet
   Parcel Depth: 362 feet
   Parcel History: Created 2001.

4. Existing Land Use Features:
   Public Road: 11000 W Road & 4000 N Road
   Floodplain: None
   Wetland: None

5. Surrounding Zoning:
   North: A1-Agriculture & A2-Agriculture Estate
   West: A1-Agriculture
   South: A1-Agriculture
   East: A1-Agriculture

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

Kankakee County Planning Department
7. Municipal Planning Boundary:
   Nearest Municipality: Bonfield
   Distance: 2.25 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 - 15 miles.
   Fire Protection: Salina Township - 2.5 miles.
   Water: Herscher - 8 miles.
   Collector Road: County Highway 47 (2 miles east)

10. Miscellaneous Information:
    County Board District: Twelve (12) - Mrs. Evans.

11000 W Road looking south from 4000 N Road.

4000 N Road looking east from 11000 W Road.