

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61801

DATE: October 1, 2009 PLACE: Lyle Shields Meeting Room
1776 East Washington Street
TIME: 7:00 p.m. Urbana, IL 61802

MEMBERS PRESENT: Doug Bluhm, Catherine Capel, Thomas Courson, Roger Miller, Eric Thorsland

MEMBERS ABSENT : Paul Palmgren, Melvin Schroeder

STAFF PRESENT : Connie Berry, John Hall, J.R. Knight

OTHERS PRESENT : Mike Tague, Gene Bateman, Lou Wozniak, Kevan Parrett

1. Call to Order

The meeting was called to order at 7:01 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present.

3. Correspondence

None

4. Approval of Minutes (September 17, 2009)

Mr. Miller moved, seconded by Mr. Thorsland to approve the September 17, 2009, minutes as submitted. The motion carried by voice vote.

5. Continued Public Hearing

Remanded Case 520-AM-05 Petitioner: Gene and Carolyn Bateman Request: Amend the Zoning Map to allow for the development of 3 single family residential lots in the AG-1, Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District. Location: Approximately 12.04 acres of an existing 62.20 acre parcel in the East Half of the Northeast Quarter of Section 29 of Newcomb Township that is commonly known as the farm field that borders the south side of CR

2600N and the west side of CR 200N.

Mr. Hall stated that this is the second time that this case has been remanded and distributed a Supplemental Memorandum dated October 1, 2009, to the Board for review. He said that the new memorandum includes new items of evidence which indicates the history of Case 520-AM-05 and clarification of staff's recommended evaluation of certain RRO factors. He read new Item 9.G as follows: Regarding the history of Case 520-AM-05: (1) The petitioner submitted the application for rezoning to the RRO District, for the development of five residential lots, on October 12, 2005; and (2) The public hearing was opened on March 30, 2006; and (3) On October 12, 2006, the ZBA voted to Recommend Denial to ELUC and the full County Board; and (4) On November 13, 2006, ELUC voted to remand Case 520-AM-05 so the petitioner could revise the site plan to deal with the ZBA's concerns; and (5) On December 14, 2006, the ZBA voted to Recommend Approval of the revised RRO, two flag lots, to ELUC and the full County Board; and (6) Case 520-AM-05 was tabled at ELUC in January and February of 2007. On March 12, 2007, ELUC voted to defer Case 520-AM-05 until the *Zoning Ordinance* was amended to include specific requirements for development near pipelines; and (7) The *Zoning Ordinance* was amended on November 20, 2008, by Ordinance No. 841 (Case 583-AT-07), which added requirements for development near pipelines; and (8) On February 9, 2009, ELUC voted to remand Case 520-AM-05 to the ZBA so the petitioner could revise his plan to better fit the new requirements regarding separations from natural gas pipelines; and (9) The petitioner's representative submitted the current plan on September 18, 2009.

Mr. Hall stated that the Supplemental Memorandum dated September 25, 2009, includes several attachments which are primarily for the benefit of new Board members who have not been involved in an RRO case. He said that the Preliminary Memorandum dated March 24, 2006, explains the factors which really make an RRO case unlike any other map amendment. He said that there are two specific findings required in RRO requests: 1. Suitability of the proposed site for the development of rural residences; and 2. Impact that the proposed residential development will have on surrounding agriculture. He said that there are a number of items of evidence required for RRO cases therefore staff has provided some location maps for the Board's review as well as the original Natural Resource Report, new IDOT map which updates the transportation data, 2001 Land Use Regulatory Policies, Ordinance No. 841 (Zoning Case 583-AT-07), four tables to equate the RRO conditions to typical Champaign County conditions: (1) Table of Common Conditions Influencing the Suitability of Locations for Rural Residential Development in Champaign County; (2) Comparing the Proposed Site Condition to Common Champaign County Conditions; (3) Summary of Site Comparison for Factors Relevant to Development Suitability; and (4) Summary of Comparison for Factors Relevant to Compatibility with Agriculture. He noted that ratings on the tables are staff recommendations and it is up to the Board to accept or change those recommendations. He said that Item #5 of Table 2: The presence of nearby natural or manmade hazards, has been rated "Much worse than typical" because although the proposed lots meets the *Ordinance* requirements regarding pipeline impact radius each lot still has pipeline impact radius on it which definitively is not a typical condition. He said that the Board could indicate that it is just "Worse than typical" or "Not much worse than typical" but either way the Board must indicate what they see fit.

Mr. Hall stated that Table 2 is summarized in Attachment V, which indicates that road safety is "Ideal or Nearly Ideal while septic suitability, flood hazard status, LESA score, effects on drainage and environmental concerns are rated at "Much Better than typical." He said that the availability of water and emergency

1 services are rated at “More or less typical” and other hazards are rated at “Much worse than typical.” He
2 said that the effect of farms on Attachment V is indicated as “Worst or Nearly Worst.” He said that
3 Attachment W deals with the second factor for RRO approval which is the impact on surrounding
4 agriculture as compared to the Non-RRO alternative. He said Attachment W indicates that there will be
5 more land converted, more land developed, more road traffic, and more effects on farms due to the
6 additional lots but no change to drainage of land evaluation scores.
7

8 Mr. Hall stated that Item #2 of Page 2 of the Supplemental Memorandum dated October 1, 2009, indicates
9 that Item #17.D of the Summary of Evidence, related to manmade hazards, should be revised to indicate
10 “much worse than typical” instead of “worse than typical.” He said that Item #3 indicates that the two
11 following paragraphs should replace Item #17.D(3): (3) The proposed RRO lots are located in the Manlove
12 Gas Storage Field and the parent tract has high pressure natural gas pipelines on three sides. All three of the
13 proposed RRO lots are located partially within the PIR and without some separation from the PIR the
14 proposed lots should not be considered “typical” for location near man-made hazards; and (4) However, all
15 three lots do include at least an acre of buildable area outside the PIR as required by the *Zoning Ordinance*
16 and are conforming in that regard. He said that Item #4 indicates that Item #21.C, regarding the effects on
17 wetlands, archaeological sites and natural areas, should be revised to indicate “much better than typical”
18 instead of “typical.” He said that Item #22 should be revised to read as follows: Compared to common
19 conditions found at rural sites in Champaign County, the lots in the Bateman Proposed Tracts received on
20 September 18, 2009, are similar to the following: A. “Ideal or Nearly Ideal” conditions for adequacy of
21 roads; and B. “Much Better than Typical” conditions for the following factors: (1) Effects on drainage; (2)
22 Septic suitability; (3) LESA score; (4) Flood Hazard Status; (5) Environmental concerns; and C. “More or
23 Less Typical” conditions for the following four factors: (1) Emergency Services; (2) Availability of water;
24 and D. “Much Worse than Typical” conditions for the following factor: (1) Natural or man-made hazards;
25 and E. “Worst or Nearly Worst than Typical” conditions for the following factor: (1) Effects on farms.
26

27 Mr. Hall stated that there are several attachments to the Supplemental Memorandum dated October 1, 2009,
28 which deal with livestock facilities and there are several livestock facilities in the area. He said that
29 Attachment C. is a Table Summarizing Requirements of the Illinois Livestock Management Facilities Act
30 (510 ILCS 77/et seq.) which, in the case of an RRO, once staff has mapped out the livestock facilities within
31 one-mile of a proposed RRO, staff can identify the impacts that the RRO would have just simply in terms of
32 the Illinois Livestock Management Facilities Act. He said a map has been included indicating the livestock
33 facilities and two appear to be inactive but could be reactivated at any time. He said that a cattle operation is
34 immediately adjacent to the south side of the parent tract but there are no current livestock operations that
35 actually border any of the proposed lots. He said that, in regard to the map of livestock facilities and the
36 table indicating Livestock Management Facilities within one mile of proposed RRO, livestock facilities C
37 and D have a total of 14 non-farm residences within one mile. He said that the table was prepared when
38 there were five RRO lots proposed therefore two lots should be removed indicating two non-farm residences
39 within one mile of the proposed RRO. He said that it is his understanding that an RRO of more than one lot
40 means that C and D have a populated area within one mile which is only relevant in terms of the *Livestock*
41 *Management Facilities Act* and if those livestock facilities wanted to expand to more than 7,000 animal
42 units, which is unlikely. He said that regardless of what the *Livestock Management Facilities Act* states it is
43 highly incompatible when you have houses going next to a livestock facility.
44

1 Mr. Hall stated that attached to the Supplemental Memorandum dated October 1, 2009, is the Finding of
 2 Fact for the last time that the Board took action on Case 520-AM-05. He said that at that time the Board
 3 recommended approval of Case 520-AM-05 and the finding is only discussing the development of two
 4 residences. He said that finding #1 indicated that the proposed site, subject to conditions, was suitable for
 5 the development of two residences because: A. the site has more or less typical Champaign County
 6 conditions due to manmade hazards and safety concerns; and B. much better than typical and nearly ideal
 7 conditions for the other considerations of adequacy of roads; effects on drainage; septic suitability; LESA
 8 score; and flood hazard status, and the availability of water is more less typical; and C. the property is
 9 between 4 and 5 miles from the Cornbelt Fire Protection District; and despite: D. the fact that there are high
 10 pressure gas pipelines in the vicinity; and E. the site has much worse than typical Champaign county
 11 conditions because it is bordered on one side by livestock management facilities; and F. emergency services
 12 vehicles access is limited by flooding. He said that this is the only finding that the Board determines
 13 “because of” and “despite of” and he does not believe that there has been an RRO yet, even though the
 14 Board was ready to recommend approval, where the Board did not recognize that there were some things
 15 that were not ideal.

16
 17 Mr. Hall stated that finding #2 indicates that the development of the proposed site under the proposed Rural
 18 Residential Overlay development, subject to conditions, will be compatible with surrounding agriculture
 19 because: A. surface drainage that is much better than typical; and B. the condition to provide an easement
 20 for the drainage district tile; and C. the adequacy of the roads that is nearly ideal Champaign County
 21 conditions; and D. traffic generated by the proposed RRO District that will be only 100% more than without
 22 the RRO; and despite E. presence of adjacent livestock management facilities on one side and four other
 23 livestock management facilities within one-mile radius of the property for a total of three active facilities
 24 that are by law allowed to expand up to 1,000 animal units; and F. the presence of a drainage district tile
 25 near the proposed RRO District.

26
 27 Mr. Hall reviewed Item #24 of the Revised Draft Summary of Evidence dated September 25, 2009, which is
 28 in regard to possible special conditions of approval. He read the conditions as follows:

29
 30 **24.A(1): Prospective lot purchasers shall be made aware of the presence of the**
 31 **Manlove Gas Storage Facility on the property and the presence of**
 32 **related high pressure gas pipelines on the property and the related**
 33 **gas injection wells on adjacent property**
 34 to ensure the following:
 35 **All prospective lot purchasers have a full knowledge as possible of the**
 36 **Manlove Gas Storage Facility prior to purchase of a lot.**

37
 38 **24.A(2): Prospective lot purchasers shall be made aware of the presence of**
 39 **easements for Peoples Gas Light and Coke Company as originally**
 40 **granted on November 30, 1965, and recorded at pages 71 and 72 in**
 41 **Book 809 of the Office of the Champaign County Recorder of Deeds;**
 42 **and all said easements shall be specifically mentioned in any deed for**
 43 **any lot in the Rural Residential Overlay District in Zoning Case**
 44 **520-AM-05; and all said easements shall be indicated on any Plat**

of Survey that is prepared for any lot in said Rural Residential Overlay District.

to ensure the following:

All prospective lot purchasers and lot owners have as full knowledge As possible of these easements before and after purchase.

24.A(3):

Prospective lot purchasers shall be made aware of the Zoning Ordinance requirements that prohibit any construction in the Pipeline Impact Radius (except for driveways) and the resulting amount of buildable area available on each lot.

to ensure the following:

All prospective lot purchasers and lot owners have as full knowledge as possible of the restrictions placed on the lots due to their proximity to high pressure gas lines.

24.B(1):

Prior to offering any lots for sale the petitioner shall dedicate a tile access and maintenance easement for the tile in the swale with an easement of width of 80 feet centered on the centerline of the swale and no construction nor earthwork shall occur within the tile easement and no woody vegetation shall be allowed to grow nor shall any connection be made to the drainage district tile without prior written approval of the Newcomb Special Drainage District.

to ensure the following:

The existing agricultural drainage system can be easily maintained in the future; and is not harmed by the proposed Rural Residential Overlay Zoning District; and that said District complies with the requirements of the Champaign County Stormwater Management Policy.

24.B(2):

Prior to offering any lots for sale the petitioner shall either replace the underground drainage tile in the swale, with the approval of the Newcomb Special Drainage District being received beforehand, and any lateral drainage tile on the proposed RRO lots that is connected thereto with non-perforated conduit as required by the Champaign County Stormwater Management Policy unless something less is authorized by variance by the Champaign County Zoning Board of Appeals.

To ensure the following:

the existing agriculture drainage system is not harmed by the proposed Rural Residential Overlay Zoning District and that said District complies with the requirements of the Champaign County Stormwater Management Policy.

1 Mr. Hall stated that after reading this condition, he wonders if this is what the Board truly intended. He said
2 that this condition may merit some special consideration prior to the final determination. He said that there
3 was some testimony indicating that old, large tile should not be disturbed unless absolutely necessary.

4
5 Mr. Bluhm stated that it was his understanding that any tile that was on the lot that was uncovered would
6 need to be replaced although Item #24.B(3) discusses tile on the lots.

7
8 Mr. Hall stated that he is confused about Item #24.B(2) and he would like to revisit this condition. He
9 continued to Item #24.B(3).

10
11 **24.B(3): Any underground drainage tile that must be relocated to**
12 **accommodate any construction in the proposed Rural Residential**
13 **Overlay Zoning District shall be replaced and relocated in**
14 **conformance with the Champaign County Stormwater Management**
15 **Policy.**

16 To ensure the following:
17 **the existing agricultural drainage system is not harmed by the**
18 **proposed Rural Residential Overlay Zoning District and that said**
19 **District complies with the requirements of the Champaign County**
20 **Stormwater Management Policy.**

21
22 **24.C(1): Tracts 2 and 3 of the Bateman Proposed Tracts received on**
23 **September 18, 2009, shall have centralized driveways and shall**
24 **also have grouped mail boxes located as far off the roadway as**
25 **permitted by the United States Postal Service and evidence of**
26 **the mail box installation and location shall be submitted to the**
27 **Zoning Administrator prior to the issuance of any Zoning**
28 **Compliance Certificate.**

29 to ensure the following:
30 **driveway entrances and mail boxes do not unnecessarily impede**
31 **Agricultural traffic.**

32
33 **24.C(2): All driveway entrances shall be 30 feet wide with a radius as approved**
34 **by both the Newcomb Township Highway Commissioner and the**
35 **Cornbelt Fire Protection District and evidence of both approvals shall**
36 **be submitted to the Zoning Administrator prior to the issuance of any**
37 **Zoning Compliance Certificate.**

38 to ensure the following:
39 **emergency services vehicles have adequate access to all properties.**

40
41 **24.D(1): All homes shall be served by driveways that have a paved surface**
42 **consisting of at least six inches of rock that is at least 20 feet wide and**
43 **a corner radius approved by the Cornbelt FPD and the Zoning**
44 **Administrator shall verify the pavement prior to the issuance of any**

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Zoning Compliance Certificate.

to ensure the following:

all homes are accessible by emergency vehicles.

Mr. Hall stated that this is the standard of the Cornbelt Fire Protection District.

24.D(2): Each driveway shall be provided with a means of turnaround of adequate dimension to accommodate fire protection and emergency service vehicles that at a minimum shall consist of a hammerhead (or three-point) turnaround with a paved surface consisting of at least six inches of rock that is at least 20 feet wide with a minimum length of 40 feet and the Zoning Administrator shall verify the pavement prior to the issuance of any Zoning Compliance Certificate.

to ensure the following:

All homes are accessible by emergency vehicles.

24.E. Prior to advertising any lots for sale the petitioner shall file a Miscellaneous Document with the Champaign County Recorder of Deeds stating that the Rural Residential Overlay District was authorized on the subject property subject to specific conditions and said Document shall contain all the conditions of approval for Case 520-AM-05.

to ensure the following:

Prospective lot purchasers are aware of all of the conditions relevant to approval of the Rural Residential Overlay District on the subject property.

Mr. Hall stated that if the prospective purchaser has a title search prepared they will immediately become aware of all of the conditions on the limited use of these lots and hopefully, if they read the title search, they will not find out about these conditions when they apply for their Zoning Use Permit, after they have already purchased the lot.

Mr. Bluhm stated that the top heading of the Revised Draft Summary of Evidence should be corrected to indicate Case 520-AM-05 instead of Case 573-AM-06.

Mr. Bluhm asked the Board if there were any questions for Mr. Hall.

Ms. Capel asked Mr. Hall if the number of conditions for this case was unusual for an RRO.

Mr. Hall stated no. He said that the only thing that is unusual is the pipeline radius impact conditions. He said that this is the first RRO proposed with high pressure gas pipelines but the driveway and drainage tile conditions, when there is a drainage district tile on the property, conditions are very standard.

Mr. Bluhm asked Mr. Hall if Tract 1, 2 and 3, as indicated on the map included in the Supplemental Memorandum dated September 25, 2009, were the lots that the Board is currently addressing.

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2 Mr. Hall stated yes. He said that Tracts 1 and 3 are not best prime farmland overall therefore they are five
3 acre lots and they comply with the *Plat Act* and no subdivision plat is necessary. He said that Tract 2 is best
4 prime farmland overall consisting of 1.99 acres because there is a two acre maximum for best prime
5 farmland lots in an RRO therefore Tract 2 complies and Mr. Bateman has a *Plat Act* exemption for one lot
6 less than five acres. He said that if the County Board approves the rezoning that will be the last public
7 action necessary and no subdivision approval is required after that. He said that the last plan that was
8 recommended for approval by the Board had flag lots and that was the approach that Petitioner took to get
9 the buildable areas out of the pipeline impact radius. He said that Tract 2 is technically a flag lot but Tract 1
10 and 3 are not flag lots and obviously the practical affect is the same because the houses need to be setback a
11 far distance from the road in order to be compliant with the pipeline impact radius. He said that technically
12 the Board is not dealing with flag lots but the bad thing about flag lots is a long driveway that could create
13 problems for emergency vehicle access and the same condition applies here therefore the special conditions
14 are imposed to deal with that.

15
16 Mr. Bluhm stated that the map describes the potential impact zone setback line by a dotted line and the
17 property owner is required to build outside of that radius.

18
19 Mr. Hall stated that a lot of people would criticize staff’s approach about best prime farmland. He said that
20 the map indicates dark areas that are the soil mapping units from the *Soil Survey of Champaign County,*
21 *Illinois* and it should never be assumed that the soil survey is accurate at this scale. He said that the way that
22 the *Zoning Ordinance* is written best prime farmland has to be dealt with and it is known that the soil survey
23 is not that accurate but the *Ordinance* does not require Mr. Bateman to hire a soil scientist to go out and map
24 the soils on his property so that staff could have map units with a higher degree of confidence. He said that
25 this is what staff does even though, to a certain extent, it is misapplying the soil survey, and it is the only
26 alternative that staff has. He said that if someone wanted to criticize this practice they would be accurate but
27 it is the only way that staff has to deal with soils. He said that this is not meant to be a criticism of the plan
28 that has been presented by Mr. Bateman and the only way that we can proceed to deal with soils is by taking
29 the soil survey at face value even though it shouldn’t be applied that way.

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31 Mr. Bluhm clarified that Item #15.A indicates that the subject property is located between 5.3 road miles
32 from the Cornbelt Fire Protection District station in Mahomet but Item #15.C indicates that the RRO District
33 is between 4 and 5 road miles from the Cornbelt Fire Protection District station in Mahomet.

34
35 Mr. Knight stated that Item #15.C should indicate that the RRO District is between 5 and 6 road miles from
36 the Cornbelt Fire Protection District station in Mahomet.

37
38 Mr. Hall agreed. He said that Item #15.C could indicate that the RRO District is about 5.3 road miles from
39 the Cornbelt Fire Protection District station in Mahomet.

40
41 Mr. Bluhm stated that Item #15.C could indicate between 5 and 6 miles and changes the comparable to
42 “more or less typical.” He said that this issue can be finalized when the Board reviews the Finding.

43
44 Mr. Bluhm asked the Board if there were any additional clarifications or questions for Mr. Hall and there

1 were none.

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3 Mr. Bluhm called Mr. Mike Tague to testify.

4
5 Mr. Mike Tague, attorney for Mr. Bateman, stated that he reviewed all of the documentation for this
6 hearing. He said that while it is true that this is the seventh meeting and that is because he and Mr. Bateman
7 have worked very hard to struggle with some concepts that were not clarified until the pipeline radius impact
8 ordinance was adopted. He said that the ZBA voted on this project twice and the first time it was denied
9 based upon concerns of the pipeline impact radius and the second time it was approved due to the relocation
10 of the buildable areas outside of the pipeline impact radius. He said that after several meetings and two
11 remands the County Board gave them the policy that is to be applied with the impact radius. He said that he
12 essentially had no issues with most of the information included in the Supplemental Memorandum dated
13 September 25, 2009, although Item #17.D of the Revised Draft Summary of Evidence dated September 25,
14 2009, discusses the impact radius and whether the RRO is comparable to “much worse than typical,” “worse
15 than typical” or “typical.” He said that initially the draft would indicate that the RRO is “much worse than
16 typical” because of three items which were delineated in the memorandum. He said that he called staff to
17 question if “worse than typical” made sense with those three findings and staff pointed out that the RRO
18 complies with the ordinance in question and it appears that their recommendation that the RRO falls on the
19 worse side of typical is based upon the pipeline proximity. He said that this must be because this particular
20 part of the County houses the pipelines and most of the areas in the County do not however this takes a giant
21 step back from what the County Board has directed with their enactment of the ordinance. He said that the
22 enactment of the ordinance was meant to make this a typical application if a home was built outside of the
23 pipeline radius and had the adequate buildable area in compliance with the ordinance. He said that he
24 suggested that rather than striking out “much worse” that “much worse than” should be stricken and
25 “typical” should be indicated. He said that not only did staff not adopt his suggestion but added “much
26 worse” back into Item #17.D and given the enactment of the pipeline impact radius ordinance that is an
27 erroneous finding and if that were the basis for a denial of a recommendation he would think that all of the
28 hard work and attempt to stay out of court is lost. He said that he believes that “worse than typical” was bad
29 enough but “much worse than typical” is not justified under the factors that are involved. He said that the
30 fact that the pipelines are not located on Mr. Bateman’s property as it relates to Tracts 2 and 3 and the
31 impact radius has been mitigated with the special conditions and the overlying ordinance from the County
32 Board.

33
34 Mr. Tague stated that there are livestock management facilities of which only one is active. He said that one
35 of the inactive livestock management facilities is across the road to the east of the proposed RRO and is
36 separated by the road. He said that in the dialogue as to why this is not good for RRO lots there is a
37 suggestion that if an RRO lot was next to a fence the cattle might come up to the fence and if they got
38 through the fence they would come upon an RRO lot. He said that if the inactive livestock facility across
39 the road became active the bigger problem with the cattle getting out of the fence would be that they would
40 get into the road traffic rather than into the RRO lots and traversing another 371 feet in the non-buildable
41 area into the occupied area. He said that with only one active facility the owner’s created a residential lot
42 amongst the cattle lot. He said that “much worse than typical” or “worse than typical” is not supported by
43 the fact that there is only one active livestock management facility that is not contiguous to the RRO lots
44 therefore “typical” is more appropriate.

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Mr. Tague stated that new Item #22.C(2) included in the Supplemental Memorandum dated October 1, 2009, refers to availability of water. He said that the proposed RRO is on the Mahomet-Teays Aquifer therefore water availability is “ideal.” He said that emergency services being five miles away is “typical” for a rural area. He said that if we are looking at site specificity, which is apparently being done with pipelines under this proposal, it has been determined that it is “much worse than typical” which is because the pipelines are only in this area. He said that water is readily available in the area of the proposed RRO, due to the Mahomet-Teays Aquifer, and it is not in other areas of the County.

Mr. Tague stated that the flag lots that were proposed in the version that was passed by the ZBA would have been more troublesome to a general impact on farming relative to the parent tract itself. He noted that Mr. Bateman is a farmer and would prefer to not sell any lots but his wife is in extended care and it may be necessary for him to sell these lots to provide revenue for her care. Mr. Tague stated one of the flag lots had an extremely long lane and irregular shape to meet the best prime farmland requirements although it was removed from the current proposal. He said that with the pipeline impact radius ordinance passed they were able to essentially prepare rectangular lots that had the same frontage as the rear where the buildable area would be and the only reason why Tract 2 is a flag lot is to deal with the soil type category, which is imprecise, to get to the two acre criteria. He said that essentially they believe that the current configuration is much improved from the one that the Board previously approved and should be acceptable.

Mr. Bluhm asked the Board if there were any questions for Mr. Tague.

Mr. Courson asked Mr. Tague, if Mr. Bateman is considering the RRO for revenue for his wife’s care, has Mr. Bateman considered selling the entire farm rather than breaking it up into pieces.

Mr. Tague stated that Mr. Bateman has considered such and his preference would be to not sell any of his property but if he had to he would only sell one lot at a time to see what is required.

Mr. Bluhm asked Mr. Tague if Tract 2 will only be close to the easement for the drainage district tile and not within the easement.

Mr. Tague stated that Tract 2 will be close to the easement but it will not impact the easement.

Mr. Bluhm asked Mr. Tague if Tract 1 would be similar.

Mr. Tague stated correct, he does not believe that Tract 1 or Tract 2 will impact the drainage district easement. He said that if they do anything relative to the tile located within that easement they would repair the tile as required.

Mr. Bluhm stated that previously the drainage district was not aware of the exact location of the tile within the easement.

Mr. Hall stated that the engineer located the drainage district tile and indicated it on the map.

10-01-09

AS APPROVED OCTOBER 15, 2009

ZBA

1 Mr. Tague stated that he does not remember the details of how they located the drainage district tile but to
2 his knowledge the location was satisfactory to the drainage district.

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4 Mr. Bateman concurred that the drainage district tile was located.

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6 Mr. Bluhm asked Mr. Hall if there were any additional questions for Mr. Tague.

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8 Mr. Hall stated that he agrees with Mr. Tague's comments regarding water availability. He said that the
9 Table of Common Conditions, which was included in the Supplemental Memorandum dated September 25,
10 2009, indicates the availability of water supply and an "Ideal" condition is the virtual certainty of water
11 availability (i.e., located above the Mahomet-Teays Aquifer) or anywhere that investigations indicate
12 availability with no significant impact on existing wells. He said that based on this information it would be
13 consistent with staff's approach in other RRO's to call this an "Ideal" condition in regard to water
14 availability.

15

16 Mr. Tague stated that when water availability and emergency services are combined arguably there would
17 not be an "Ideal" situation but it would be a "Better than typical."

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19 Mr. Thorsland stated that there was previous testimony regarding access to the lots due to flood waters.

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21 Mr. Bluhm stated that he understands Mr. Tague's comments about the cattle getting out of the fence but
22 odor would be a bigger factor. He said that the Board cannot control the winds and that is what helped
23 influence the factor of "Worse than typical" because there are not a lot of livestock management facilities in
24 the County.

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26 Mr. Tague stated that prevailing winds are a big factor although it would be very rare to have an easterly
27 wind flow from the livestock facility across the road.

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29 Mr. Bluhm asked the Board if there were additional questions for Mr. Tague and there were none.

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31 Mr. Bluhm asked if staff had additional questions for Mr. Tague and there were none.

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33 Mr. Bluhm called Mr. Bateman to testify.

34

35 Mr. Bateman declined to testify at this time although he would be available to answer any questions that the
36 Board may have.

37

38 Mr. Bluhm asked the Board if there were any questions for Mr. Bateman.

39

40 Mr. Thorsland asked Mr. Bateman if he had reviewed the special conditions included in the memorandums.

41

42 Mr. Bateman stated yes.

43

44 Mr. Bluhm called Mr. Kevan Parrett to testify.

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Mr. Kevan Parrett, who resides at 180 CR 2400N, Mahomet stated that he is present at tonight’s public hearing to represent the Newcomb Special Drainage District. He said that he wanted to make sure that everything that they had discussed and agreed to with Mr. Bateman were included in the proposal and it appears that it is. He said that the drainage district and Mr. Bateman located the drainage district tile on the northeast corner and then found it on the southeast side where it crosses the road. He said that the new lots seem to infringe less on the drainage district therefore the drainage district is satisfied with the proposal and the special conditions that have been imposed.

Mr. Bluhm asked Mr. Parrett if he remembers the special condition requiring replacing the drainage tile in the swale with non-perforated tile.

Mr. Parrett stated no and it doesn’t make sense.

Mr. Hall asked Mr. Parrett if the drainage district would prefer that the drainage district tile not be disturbed unless it requires repair.

Mr. Parrett stated that if someone wants to connect to the drainage district tile they have to obtain permission from the Newcomb Special Drainage District. He said that the only thing that he can assume that the special condition would pertain to is if someone is building their house and they cut a private tile, not a drainage district tile, they would be required to replace and repair that tile with non-perforated tile. He said that the Newcomb Special Drainage District 24-inch tile is located within the swale although Mr. Bateman does have several private tiles which connect to the 24-inch tile but their tile is their only concern.

Mr. Hall stated that the way that the *Stormwater Policy* is written it calls for the replacement of all tiles through the developed areas and technically the drainage district tile does not go through any developed area.

Mr. Parrett stated that the drainage district tile easement may infringe on Tract 1 a little bit but the main tile does not go through any of the proposed lots.

Mr. Hall stated that he does not see a need for Condition #24.B(2), certainly not in the way that it is currently worded, and Condition #24.B(3) takes care of any disturbance to any tile that may happen.

Mr. Bluhm asked Mr. Parrett if the Newcomb Special Drainage District would object to the elimination of Condition #24.B(2).

Mr. Parrett stated no.

Mr. Bluhm asked the Board if there were any additional questions for Mr. Parrett and there were none.

Mr. Bluhm asked if staff had any additional questions for Mr. Parrett and there were none.

Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding

1 Case 520-AM-05.

2

3 Mr. Bluhm called Mr. Louis Wozniak to testify.

4

5 Mr. Louis Wozniak, who resides at 401 CR 2425N, Mahomet stated that he owns property on Route 47
6 which is directly east of Mr. Bateman’s property. He said that he disagrees with Mr. Tague’s comment that
7 the proposed RRO is “Ideal” for water availability because one needs to compare it to the rest of the County
8 where water is hard to access. He said that it would appear that because of the aquifer it is “Ideal” under all
9 conditions and not because of the comparison of someone else who does not have it. He said that he is taken
10 aback that the proposed RRO was rated “Worse than typical” due to the pipelines. He said that he
11 understands that staff must select one of the points that are listed but it must be noted that the pipeline
12 ordinance was passed and the RRO does meet those requirements therefore the rating should be mitigated to
13 reflect that point.

14

15 Mr. Bluhm asked the Board if there were any questions for Mr. Wozniak and there were none.

16

17 Mr. Bluhm asked if staff had any questions for Mr. Wozniak.

18

19 Mr. Hall stated that when the ratings are discussed we are talking about typical conditions not whether it is
20 suitable or not and it would be nice if we had a table that indicated what is suitable and what is not, but such
21 a table is not possible. He said that we are discussing common conditions and there are pipelines all over
22 Champaign County but if Mr. Wozniak had to find out what the average condition is, it would not be to have
23 a property with a pipeline on it.

24

25 Mr. Wozniak stated that he is objecting to the way it is characterized because it is negatively impacting the
26 request for the RRO and it should not because the RRO does meet the codes.

27

28 Mr. Hall stated that he is suggesting that this is more relative to the issue about suitability rather than typical
29 conditions.

30

31 Mr. Wozniak stated that they can agree to disagree.

32

33 Mr. Bluhm asked the audience if anyone desired to sign the witness register to present testimony regarding
34 Case 520-AM-05 and there was no one.

35

36 Mr. Bluhm closed the witness register.

37

38 Ms. Capel stated that Item #22.C should be revised to indicate (2) water availability as “Ideal or Nearly
39 Ideal” in Item 22.A.

40

41 Mr. Bluhm asked the Board to comment on emergency services.

42

43 Mr. Wozniak stated that it should be noted in the finding that the RRO meets the codes for the pipeline
44 impact radius ordinance.

1
2 Mr. Hall stated that the finding should always indicate that the RRO does conform to the *Ordinance*
3 requirements.
4
5 Ms. Capel stated that emergency services appear to be “typical” and it should remain under Item #22.C(1).
6
7 Mr. Thorsland and Mr. Bluhm agreed.
8
9 Mr. Bluhm stated that Mr. Tague discussed the effect of farms, livestock management facilities, which is
10 listed under Item #22.E.
11
12 Ms. Capel asked Mr. Hall if the entirety of the remaining farmland is equitable and in crop production.
13
14 Mr. Bluhm stated yes.
15
16 Ms. Capel stated that the lots are virtually surrounded by agriculture which entails spraying, chemicals, etc.
17
18 Mr. Bluhm stated that it is not just the livestock management facilities that were taken into consideration.
19
20 Mr. Thorsland stated that there is a presumption that as more houses come in they won’t sway over what
21 they smell or hear regardless of the duration of the livestock operation. He said that there will be an impact
22 regardless of an existing facility. He said that Item #21.C was previously revised to indicate “much better
23 than typical.” He said that the Item #22 of the Revised Summary of Evidence dated September 25, 2009,
24 will be supplemented by the text included in the Supplemental Memorandum dated October 1, 2009, with
25 the revision to Items #22.A and 22.C(2) which moves availability of water to “Ideal.”
26
27 Mr. Bluhm stated that Mr. Tague argued that the pipeline impact radius ordinance was passed and the RRO
28 meets those requirements therefore it should not receive a rating of “Worst or Nearly Worst than Typical”
29 but “Much Worse than Typical.”
30
31 Mr. Thorsland stated that Mr. Hall explained the difference between typical conditions and suitability. He
32 said that some of the existing lots in the area are entirely within the PIR.
33
34 Mr. Hall stated that it occurred to him that there is a legal question here and he is fairly confident that the
35 State’s Attorney would say that if meeting the *Ordinance* requirement is not suitable for approval then the
36 *Ordinance* needs to be revised. He stressed to the Board not to confuse typical conditions with what is
37 suitable. He said that the County Board determined that as long as someone is not building within the PIR
38 then it is a suitable place to build which does not mean that it is a typical condition at all. He said that
39 Attachment V should be revised to indicate that the availability of water is “Ideal or Nearly Ideal
40 Condition.” He said that the revised Attachment V will indicate two factors which are “Ideal or Nearly
41 Ideal” and five factors which are “Much Better than Typical” and one at “Much Worse than Typical” and
42 one at “More or Less Typical.”
43 He said that the written text indicates that the effect of farms is “Much Worse than Typical” and the Table of
44 Common Conditions indicates that the RRO is bordered by row crop agriculture on three sides but also close

1 to and downwind of an existing livestock and /or stable operation and the cattle facility is south and west of
2 the proposed RRO. He said that the effects of farms should be “Much Worse than Typical” as stated in the
3 Summary of Evidence therefore new Item #22.E “Worst or Nearly Worst than Typical” should be stricken
4 and Item 22.D “Much Worse than Typical” should be revised with the addition of (2) effects of farms.
5

6 Mr. Bluhm requested the Board’s comments regarding the proposed Special Conditions.
7

8 Mr. Hall stated that Special Condition #24.A(2) dates from the plan that had the large lot on the south side
9 that did include some pipeline easements but none of the current lots contain any easements for pipelines
10 therefore he questions the need for Special Condition included in #24.A(2).
11

12 Mr. Bluhm asked about Tract 2 because the plat indicates that there is an easement for the access road into
13 the centerline of the driveway for Tract 2. He said that he would maintain the Special Condition included in
14 #24.A(2).
15

16 Mr. Courson asked Mr. Hall if there is adequate buildable area for Tract 2.
17

18 Mr. Hall stated yes. He said that the Board could request more information for Tract 2.
19

20 Mr. Knight stated that there will be 1.01 acres left for buildable area.
21

22 Mr. Bluhm asked the Board if there were any questions or comments regarding Special Conditions included
23 in Items # 24.A(1); 24.A(2); and 24.A(3) and there were none.
24

25 Mr. Thorsland stated that the following text should be added to Item #24.B(1): Prior to offering any lots for
26 sale the petitioner shall dedicate a tile access and maintenance easement for the tile in the swale with an
27 easement of width of 80 feet centered on the centerline of the swale and no construction nor earthwork shall
28 occur within the tile easement and no woody vegetation shall be allowed to grow nor shall any connection
29 be made to the drainage district tile without prior written approval of the Newcomb Special Drainage
30 District.
31

32 Mr. Bluhm requested the Board’s comments or questions regarding the Special Condition included in Item
33 #24.B(2). He said that there should not be any disturbance of the drainage district tile.
34

35 Ms. Capel stated that it doesn’t seem right to make Mr. Bateman responsible for replacement of the drainage
36 district tile when there will be no impact upon that tile.
37

38 Mr. Hall stated that the original version of the RRO indicated that over half of the drainage district tile
39 would be completely on lots and the Stormwater Management Policy would require that it be replaced at
40 that point but since the RRO has been revised there is no part of the drainage district tile located on any of
41 the RRO lots. He said that the Special Condition included in Item #24.B(2) can be stricken.
42

43 Mr. Bluhm asked if the Board had any questions or comments regarding the Special Condition included in
44 Item #24.B(3) and there were none.

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Mr. Bluhm read the Special Conditions included in Items #24.C(1) and 24.C(2).

Mr. Thorsland asked Mr. Hall if he was aware of the location of the driveway on the existing lot.

Mr. Hall stated that he believed the driveway was located in the middle of the lot therefore it could not share a drive with Tract 1.

Mr. Bluhm read the Special Conditions included in Items #24.D(1); #24.D(2); and #24.E. He asked the Board if there were any questions or comments regarding these special conditions and there were none.

Mr. Bluhm asked Mr. Tague and Mr. Bateman if they were agreeable to the special conditions as revised.

Mr. Tague and Mr. Bateman stated yes.

Mr. Courson moved, seconded by Mr. Miller to approve the special conditions as amended. The motion carried by voice vote.

Mr. Hall stated that a new Item #18 should be added to the Documents of Record indicating the following: Supplemental Memorandum for Case 520-AM-05, dated October 1, 2009, with attachments.

Mr. Bluhm stated as a useful guide the Finding of Fact was included for Case 520-AM-05, as it was recommended for approval on December 14, 2006.

Mr. Hall stated that Well Suited applies to RRO's with best prime farmland and if all of the soils were averaged it would be determined that the RRO is non-best prime farmland on average.

Mr. Knight stated that the soil rating is 84 therefore Well Suited would not apply and the Board only needs to determine if the RRO is suited overall.

Finding of Fact for Case 520-AM-05:

From the Documents of Record and the testimony and exhibits received at the public hearing conducted on March 30, 2006, April 13, 2006, July 13, 2006, August 31, 2006, October 12, 2006, December 14, 2006, and October 1, 2009, the Zoning Board of Appeals of Champaign County finds that:

- 1. The Proposed Site SUBJECT TO CONDITIONS, IS SUITED overall for the development of THREE residences.**

Mr. Hall recommended that the Board construct their findings consistent with the overall determination and would recommend to not have a negative finding if the Board's intent is to have an overall recommendation for approval. He said that he would treat the two findings like the Board treats the two findings for a variance in that they both have to be affirmative in order to approve the RRO.

1 Mr. Courson stated that the proposed site, subject to conditions, IS SUITED overall for the development
2 of three residences because of the following:

3 A. the site has more or less typical Champaign County conditions due to manmade hazards
4 and safety concerns; and

5 B. much better than typical and nearly ideal conditions for the other consideration of
6 adequacy of roads; effects on drainage; septic suitability; LESA score; and flood hazard
7 status, and the availability of water is ideal; and

8 C. the property is 5.3 miles from the Cornbelt Fire Protection District; and
9 and despite:

10 D. the fact that there are high pressure gas pipelines in the vicinity; and

11 E. the site has much worse than typical Champaign County conditions because it is bordered
12 on one side by livestock management facilities

13 Mr. Thorsland stated that perhaps Item A should be under the despite because “Much Worse than
14 Typical” conditions due to manmade hazards and safety concerns due to the buildable area being outside
15 the PIR.

16 Mr. Hall stated that he would be concerned that the evidence does not suggest that it is more or less
17 typical for manmade hazards but he would recommend that the Board include some statement that the
18 RRO conforms to the pipeline impact radius ordinance.

19 Ms. Capel stated that the Item A should not be in the despite but should be revised to indicate that the
20 site meets the pipeline impact radius ordinance to mitigate the manmade hazards and safety concerns.
21 She said that Item E should be revised to indicate the following: the site has much worse than typical
22 Champaign County conditions because it is bordered on one side by livestock management facilities and
23 land surrounding the lots is actively farmed.

24 Mr. Bluhm stated that a new Item D should be added, and subsequent items renumbered, to indicate that
25 with the proposed special condition the property will meet the Cornbelt Fire Protection District’s
26 standards for access and turn-around.

27 **2. Development of the Proposed Site under the proposed Rural Residential Overlay**
28 **development SUBJECT TO CONDITIONS, WILL BE COMPATIBLE with**
29 **surrounding agriculture because:**

30 Mr. Thorsland stated that the development of the Proposed Site under the proposed Rural Residential
31 Overlay development SUBJECT TO CONDITIONS, WILL BE COMPATIBLE with surrounding
32 agriculture because of the following:

33 A. surface drainage that is much better than typical; and

- 1 B. the condition to provide an easement for the drainage district tile;
- 2 C. the adequacy of the roads that is nearly ideal Champaign County conditions; and
- 3 D. traffic generated by the proposed RRO District that will be only 200% more than without
- 4 the RRO

5 Ms. Capel stated that a new Item E should be added, and subsequent items renumbered, indicating the
 6 following:

- 7 E. the condition to require centralized driveways and grouped mailboxes as to not impede
- 8 agricultural traffic.
- 9 and despite:

10 Mr. Bluhm asked the Board to indicate their comments regarding despite.

11 Mr. Thorsland stated that the development of the Proposed Site under the proposed Rural Residential
 12 Overlay development SUBJECT TO CONDITIONS, WILL BE COMPATIBLE with surrounding
 13 agriculture despite the following:

- 14 F. presence of adjacent livestock management facilities on one side and four other livestock
- 15 management facilities within a one-mile radius of the property for a total of three active
- 16 facilities that are by law allowed to expand up to 1,000 animal units; and
- 17 G. the presence of a drainage district tile near the proposed RRO district

18 Mr. Thorsland stated that a new Item H should be added as follows:

- 19 H. the proposed RRO will have an impact on farm compatibility.

20 Mr. Bluhm asked if text should be included in Item F indicating the presence of one active livestock
 21 management facility.

22 Mr. Hall stated no, because there are a total of three active facilities within a one-mile radius of the
 23 RRO.

24 Mr. Bluhm asked the Board if there were any additional comments regarding the finding and there were
 25 none.

26 **Ms. Capel moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of**
 27 **Record and Finding of Fact as amended. The motion carried by voice vote.**

28 **Mr. Thorsland moved, seconded by Ms. Capel to close the public hearing for Case 520-AM-05,**
 29 **Gene Bateman. The motion carried by voice vote.**

10-01-09

AS APPROVED OCTOBER 15, 2009

ZBA

1 Mr. Bluhm informed Mr. Tague and Mr. Bateman Mr. Bluhm that two Board members are absent from
2 tonight's meeting therefore it is at their discretion to either continue Case 520-AM-05 until a full Board is
3 present or request that the present Board move forward to the Final Determination.

4
5 Mr. Tague and Mr. Bateman requested that the present Board proceed to the Final Determination.

6
7 **Final Determination for Case 520-AM-05:**

8
9 Mr. Courson moved, seconded by Ms. Capel that pursuant to the authority granted by Section 9.2 of
10 the *Champaign County Zoning Ordinance*, the Zoning Board of Appeals of Champaign County
11 determines that the Map Amendment requested in Case 520-AM-05 should BE ENACTED,
12 SUBJECT TO THE FOLLOWING SPECIAL CONDITIONS:

- 13 1. Prospective lot purchasers shall be made aware of the presence of the Manlove Gas
14 Storage Facility on the property and the presence of related high pressure gas
15 pipelines on the property and the related gas injection wells on adjacent property.

16 The above stated condition is necessary to ensure the following:

17 All prospective lot purchasers have as full knowledge as possible of the Manlove
18 Gas Storage Facility prior to purchase of a lot.

- 19 2. Prospective lot purchasers shall be made aware of the presence of easements for
20 Peoples Gas Light and Coke Company as originally granted on November 30, 1965,
21 and recorded at pages 71 and 72 in Book 809 of the Office of the Champaign County
22 Recorder of Deeds; and all said easements shall be specifically mentioned in any
23 deed for any lot in the Rural Residential Overlay District in Zoning Case 520-AM-
24 05; and all said easements shall be indicated on any Plat of Survey that is prepared
25 for any lot in said Rural Residential Overlay District.

26 The above condition is necessary to ensure the following:

27 All prospective lot purchasers and lot owners have as full knowledge as possible of
28 these easements before and after purchase.

- 29 3. Prospective lot purchasers shall be made aware of the *Zoning Ordinance*
30 requirements that prohibit any construction in the Pipeline Impact Radius (except
31 for driveways) and the resulting amount of buildable area available on each lot.

32 The above condition is necessary to ensure the following:

33 All prospective lot purchasers and lot owners have as full knowledge as possible of
34 the restrictions placed on the lots due to their proximity to high pressure gas
35 pipelines.

- 36 4. Prior to offering any lots for sale the petitioner shall dedicate a tile access and

1 maintenance easement for the tile in the swale with an easement of width of 80 feet
 2 centered on the centerline of the swale and no construction nor earthwork shall
 3 occur within the tile easement and no woody vegetation shall be allowed to grow nor
 4 shall any connection be made to the drainage district tile without prior written
 5 approval of the Newcomb Special Drainage District.

6 The above condition is necessary to ensure the following:

7 **The existing agricultural drainage system can be easily maintained in the future;**
 8 **and is not harmed by the proposed Rural Residential Overlay Zoning District; and**
 9 **that said District complies with the requirements of the Champaign County**
 10 **Stormwater Management Policy.**

11 5. **Any underground drainage tile that must be relocated to accommodate any**
 12 **construction in the proposed Rural Residential Overlay Zoning District shall be**
 13 **replaced and relocated in conformance with the Champaign County Stormwater**
 14 **Management Policy.**

15 The above condition is necessary to ensure the following:

16 **The existing agricultural drainage system is not harmed by the proposed Rural**
 17 **Residential Overlay Zoning District and that said District complies with the**
 18 **requirements of the Champaign County Stormwater Management Policy.**

19 6. **Tracts 2 and 3 of the Bateman Proposed Tracts received on September 18, 2009,**
 20 **shall have centralized driveways and shall also have grouped mail boxes located as**
 21 **far off the roadway as permitted by the United States Postal Service and evidence of**
 22 **the mail box installation and location shall be submitted to the Zoning**
 23 **Administrator prior to the issuance of any Zoning Compliance Certificate.**

24 The above condition is necessary to ensure the following:

25 **Driveway entrances and mail boxes do not unnecessarily impede agricultural**
 26 **traffic.**

27 7. **All driveway entrances shall be 30 feet wide with a radius as approved by both the**
 28 **Newcomb Township Highway Commissioner and the Cornbelt Fire Protection**
 29 **District and evidence of both approvals shall be submitted to the Zoning**
 30 **Administrator prior to the issuance of any Zoning Compliance Certificate.**

31 The above condition is necessary to ensure the following:

32 **Emergency services vehicles have adequate access to all properties.**

33 8. **All homes shall be served by driveways that have a paved surface consisting of at**

1 least six inches of rock that is at least 20 feet wide and a corner radius approved by
2 the Cornbelt FPD and the Zoning Administrator shall verify the pavement prior to
3 the issuance of any Zoning Compliance Certificate.

4 The above condition is necessary to ensure the following:

5 All homes are accessible by emergency vehicles.

- 6 9. Each driveway shall be provided with a means of turnaround of adequate
7 dimension to accommodate fire protection and emergency service vehicles that at a
8 minimum shall consist of a hammerhead (or three-point) turnaround with a paved
9 surface consisting of at least six inches of rock that is at least 20 feet wide with a
10 minimum backup length of 40 feet and the Zoning Administrator shall verify the
11 pavement prior to the issuance of any Zoning Compliance Certificate.

12 The above condition is necessary to ensure the following:

13 All homes are accessible by emergency vehicles.

- 14 10. Prior to advertising any lots for sale the petitioner shall file a Miscellaneous
15 Document with the Champaign County Recorder of Deeds stating that the Rural
16 Residential Overlay Zoning District was authorized on the subject property subject
17 to specific conditions and said Document shall contain all of the conditions of
18 approval for Case 520-AM-05.

19 The above condition is necessary to ensure the following:

20 Prospective lot purchasers are aware of all of the conditions relevant to approval of
21 the Rural Residential Overlay District on the subject property.

22
23 The roll was called:

24 Miller-yes Palmgren-absent Schroeder-absent
25 Thorsland-yes Capel-yes Courson-yes
26 Bluhm-yes

27 Mr. Hall informed Mr. Bateman that the Board has determined a recommendation for approval therefore
28 this case will be forwarded to the Environment and Land Use Committee in October and he will receive
29 notice of that meeting.

- 30 6. New Public Hearings
31

1 None

2

3 **7. Staff Report**

4

5 None

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7 **8. Other Business**

8

A. Possible cancellation of October 29th ZBA Meeting.

9

10 Mr. Hall stated that Board should determine if it should cancel the October 29, 2009, public hearing or keep
11 it on the docket and see if a quorum will be present at that time. He said that there was one case that was
12 suppose to be on the October 15th agenda but the new material for that case was not received on time
13 therefore it has been placed on the agenda for October 29th. He said that if the Board believes that there will
14 be a quorum on October 29th then the meeting should not be cancelled but there is no obligation to maintain
15 it because after the October 15th meeting the Board will have held its two required meetings for the month.
16 He said that the legal add for the case which has been placed on October 29th meeting will be sent in next
17 week therefore a decision is needed as to the fate of this meeting.

18

19 Mr. Bluhm stated that if the weather is cooperative it is very possible that many of the Board members, who
20 farm, could be absent from the October 29th meeting therefore a quorum could be endangered.

21

22 Mr. Hall stated that even if staff runs the legal for the case on October 29th the meeting can still be
23 cancelled.

24

25 Mr. Thorsland stated that he plans to attend the October 29th meeting.

26

27 Mr. Bluhm stated that Mr. Schroeder previously indicated that he should be in attendance on October 29th.

28

29 Mr. Hall stated that he would not recommend a case regarding a kennel proceed to final action without a full
30 Board present.

31

32 The consensus of the Board was to maintain the October 29th meeting at this time.

33

34 Mr. Bluhm requested that the Board call staff if they will be absent from the October 29th meeting.

35

36 **9. Audience Participation with respect to matters other than cases pending before the Board**

37

38 None

39

40 **10. Adjournment**

41

42 **Ms. Capel moved, seconded by Mr. Thorsland to adjourn the October 1, 2009, meeting. The motion**
43 **carried by voice vote.**

44

10-01-09

AS APPROVED OCTOBER 15, 2009

ZBA

1 The meeting adjourned at 8:50 p.m.

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5 Respectfully submitted

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10 Secretary of Zoning Board of Appeals

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DRAFT SUBJECT TO APPROVAL DRAFT

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DRAFT SUBJECT TO APPROVAL DRAFT

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