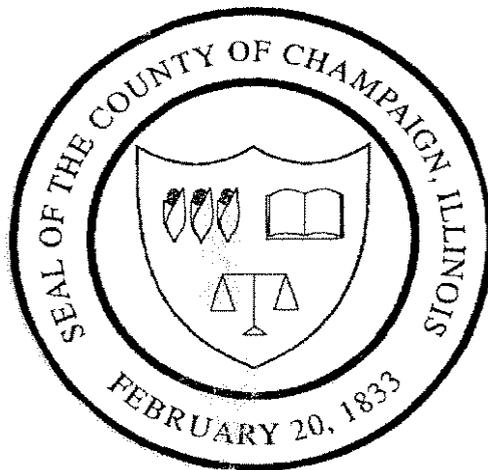


*Environment
& Land Use Committee
Agenda*

September 10, 2007



7:00 p.m.

*Lyle Shields Meeting Room
(Meeting Room 1)
Brookens Administrative Center
1776 East Washington, Urbana, Il 61802
(217) 384-3708*

AGENDA

Champaign County Environment & Land Use Committee

Date: *September 10, 2007*

Time: *7:00 p.m.*

Place: *Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington St.
Urbana, Illinois*

Members:

*Jan Anderson, Chris Doenitz, Matthew Gladney,
Brad Jones, Ralph Langenheim, Carrie Melin, Steve
Moser, Jon Schroeder (VC), Barbara Wysocki (C)*

Phone: *(217) 384-3708*

AGENDA ***Old Business shown in Italics***

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes (August 13, 2007) 1 thru 21
4. Public Participation
5. Correspondence
 - A. Press Release and Media Advisory regarding: "Champaign Sued Over Water Company Annexation Agreement" 22 thru 23
 - B. E-mail response from C. Pius Weibel regarding Armstrong IAWC annexation agreement 24
 - C. Letter from Scott Bidner, Champaign County Farm Bureau President dated August 23, 2007. 25 thru 29
 - D. Meeting of the East Central Illinois Regional Water Supply Planning Committee 30
 - E. E-mail from Linda Ehmen regarding decreasing farmland 31 thru 32
6. Recreation and Entertainment License: Egyptian Collectors Association, Inc for a Hunting and Trade Show at the Champaign County Fairgrounds, 902 North Coler, Urbana. September 29-30, 2007. 33 thru 44
7. Recreation and Entertainment License: Gordyville, LLC to operate Bull Riding and Dance. Location: 2205 CR 3000N, Gifford. October 19-20, 2007. 45 thru 58
8. *Zoning Ordinance text amendment for land use compatibility near pipelines* 59
9. *Remanded Zoning Case 520-AM-05 Petitioner: Gene Bateman* 60 thru 100

Request: Amend the Zoning Map to allow for the development of 2 single-family lots in the AG-1, Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District

Item #9 cont:

Location: *Approximately seven 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 CR 200E.*

- 10. Case 542-AM-06 Petitioner: Louis and JoAnn Wozniak** **101 thru 142**
Request: *Amend the Zoning Map to allow for the development of 8 single family residential lots in the AG-1, Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.*
Location: *A 57.64 acre tract of land located in the East ½ of the Southwest ¼ of Section 22 of Newcomb Township and located on the west side of Illinois Route 47 and between CR 2600N and CR 2650N.*
- 11. Proposed Amendment to County's Nuisance Ordinance adding burning regulations** **143 thru 147**
- 12. City of Champaign annexation agreement with Illinois-American Water Company for a proposed water treatment plant in Section 1 of Scott Township and potential role of Champaign County in litigation involving annexation agreement. (information to be distributed at meeting)**
- 13. Proposed Intergovernmental Agreement regarding development pursuant to municipal annexation agreement that is more than one-and-one half miles from the municipality.** **148 thru 151**
- 14. City of Champaign Request for increased County Contribution to Offset Cost of Drop-Off Recycling Site Update**
- 15. Champaign County Land Resource Management Plan Update**
- 16. Update on Enforcement Cases**
(to be distributed at meeting)
- 17. Monthly Report (August, 2007)**
(information to be distributed at meeting)
- 18. Other Business**
- 19. Determination of Items to be placed on the County Board Consent Agenda**
- 20. Adjournment**

SUBJECT TO APPROVAL

MINUTES OF REGULAR MEETING

Champaign County Environment & Land Use Committee
Champaign County Brookens Administrative Center
Urbana, IL 61802

DATE: August 13, 2007
TIME: 7:00 p.m.
PLACE: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

MEMBERS PRESENT: Chris Doenitz, Matthew Gladney, Brad Jones, Carrie Melin, Jon Schroeder (VC), Barbara Wysocki (C)

OTHER COUNTY BOARD MEMBERS PRESENT: Pius Weibel (County Board Chair)

DRAFT

MEMBERS ABSENT: Jan Anderson, Ralph Langenheim, Steve Moser

STAFF PRESENT: John Hall, Jamie Hitt, Leroy Holliday, Susan Chavarria (Regional Planning Commission), Susan Monte (Regional Planning Commission), Deb Busey (Champaign County Co-Administrator), Susan McGrath (Assistant State's Attorney)

OTHERS PRESENT: Rob Ore, Diane Ore, Robert Myers, Jenny Park, Hal Barnhart, Roger Armstrong, Arna Leavitt, Jason Barickman, Tanna Fruhling, Bruce Knight

1. Call to Order, Roll Call

The meeting was called to order at 7:03 p.m. The roll was called and a quorum declared present.

2. Approval of Agenda

Mr. Schroeder moved, seconded by Mr. Doenitz to approve the agenda as submitted.

Ms. Wysocki stated that Item #13, Champaign County Land Resource Management Plan Update, will be discussed during Public Participation because no action is required from the Committee at this time. She said that other than this one change the agenda will remain as submitted.

The motion carried by voice vote.

3. Approval of Minutes (June 11, 2007)

1 **Mr. Jones moved, seconded by Mr. Doenitz to approve the June 11, 2007, minutes as submitted. The**
2 **motion carried by voice vote.**

3
4 **4. Public Participation**

5
6 Ms. Susan Chavarria, Community Development Manager at the Regional Planning Commission and the
7 Project Manager for the Champaign County Land Resource Management Plan stated that currently we are
8 still in the nomination process for the Land Resource Management Plan Steering Committee. She said that
9 the deadline for nominations is August 17, 2007. She said that the first Steering Committee meeting is
10 scheduled for August 30, 2007 at 7:30 a.m. at the First Christian Church on Staley Road in Champaign. She
11 invited all ELUC members and others to attend as they see fit. She said that "Welcome" packets will be sent
12 out to all new Steering Committee members as well as ELUC members so that they can see what will be
13 discussed during the planning process, the calendar for the entire work plan and other things that go along
14 with the process. She said that currently the Regional Planning Commission is working on data collection
15 and mapping for the existing conditions and trends section of the planning process and she expects to have a
16 report on this data by the end of this year. She invited ELUC to contact herself or Ms. Monte any time if
17 they have any questions or concerns during the planning process.

18
19 Mr. Doenitz stated that he thought that the nominations for the Steering Committee were due in July.

20
21 Ms. Chavarria stated that the first round of nominations were due in July but some of the requirements that
22 were set forth in the original resolution were not completed with those nominations therefore the nomination
23 process was opened up again.

24
25 Mr. Doenitz asked who was notified of this situation.

26
27 Ms. Chavarria stated that opening up the nominations again was decided by the County Board.

28
29 Mr. Doenitz asked if the County Board voted on this.

30
31 Ms. Wysocki stated no and asked Mr. Weibel to further explain what took place at the County Board
32 regarding this issue.

33
34 Mr. Weibel stated that due to the ratio set forth in the original resolution for the Steering Committee was not
35 met therefore the Policy Committee decided to reopen the nomination period for fulfillment of that ratio. He
36 apologized for not notifying the ELUC members of the situation.

37
38 Mr. Jason Barickman, Attorney for Roger Armstrong and Arna Leavitt stated that Item #9 relates to what
39 occurred in west Champaign with the Illinois-American Water Company. He said that Illinois American
40 Water Company purchased a 40 acre tract of land which is located two and one-quarter miles west of the
41 City of Champaign's corporate boundary. He said that the when the parcel was purchased the zoning
42 designation for the parcel was AG-1, Agriculture. He said that the subject property is situated in an

1 agricultural area and somewhat residential area and what would be the normal process for a zoning change
2 did not occur. He said that normally the property owner would petition the County for a change in the
3 zoning designation but in this case the property owner petitioned the City of Champaign. He said that the
4 City of Champaign did not vote on a zoning amendment for the subject property but did vote for an
5 annexation agreement which has a provision which would immediately change the current county zoning of
6 the parcel from AG-1, Agriculture to the City of Champaign's zoning of I-1, Light Industry. He said that
7 many of the neighbors have objected to the zoning change designation for the subject property with the City
8 of Champaign's Planning Commission, which ultimately voted in favor of the pre-annexation agreement,
9 and the City Council, which also voted in favor of the pre-annexation agreement. He said that at this point
10 Illinois American Water Company has equipment at the site and as of today is probably moving dirt. He said
11 that the legal authority which allows the City of Champaign to do this is due to a controversial 2005
12 Supreme Court decision called *The Village of Chatham vs. Sangamon County*. He said that when this
13 decision was made it probably caused a lot of people at other planning departments a lot of unease in that it
14 seemed to do away with the efforts of planning departments across the state. He said that it seemed to allow
15 municipalities to enter into annexation agreements and subject non-contiguous parcels of land to the zoning
16 and building codes of the municipality. He said that the facts of *Chatham* included a parcel of land that was
17 not contiguous to the Village of Chatham but was within the one-and-one half mile extra territorial
18 jurisdiction of the Village of Chatham. He said that he and his clients are considering a lawsuit against the
19 City of Champaign and the reason that they are before ELUC tonight is to request their support in that effort.

20 He said that if you break down all of the legal issues to this case there is a battle between the county code
21 and the municipal code and while the property owners are the most specifically effected and if the county
22 law has been broken it is up to the County to stand up and say that they do not want their codes broken. He
23 said that with any lawsuit there will be disputes from attorneys on both sides. He said that some attorneys
24 will tell you that *Chatham* is an open ended decision that does allow these things to occur although he totally
25 disagrees with that statement. He said that last week he met with Pius Weibel, John Hall and Susan
26 McGrath and presented their legal theories on why this case is different and it appeared that there was some
27 surface level agreement. He said that Ms. McGrath is investigating some of the legal issues and will speak
28 about her opinion on the matter later during this meeting.

29
30 Mr. Barickman stated that the difference is that *Chatham* deals with property that is within the one-and-one
31 half mile extra-territorial jurisdiction of the Village of Chatham although in this case, which is why it is so
32 different, is that the subject property is outside of the City of Champaign's one-and-one half mile extra-
33 territorial jurisdiction. He said that while the *Chatham* court case stated that the where the county code and
34 municipal code conflict the municipal code wins but no where in the municipal code does it state that they
35 have the authority to go beyond their one-and-one half mile jurisdiction. He said that while *Chatham* did
36 decide that property that is not contiguous may be subject to an annexation agreement it did not state that
37 municipalities may now go beyond their one-and-one half mile extra-territorial jurisdiction. He said that this
38 is a question that has not gone before the courts and this is probably the best test case that will be seen
39 around the state to test that. He said that no one knows what the outcome of the courts will be therefore that
40 is why we have to go before them to ask. He said that in Rockford and other areas people have gone beyond
41 the one-and-one half mile jurisdiction and it has been indicated that some people have gone as far as twenty
42 miles but the thing to remember is that not one of those cases has been tested through the court system.

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Mr. Barickman stated that even if *Chatham* would allow for something like this to happen another item which was never asked during that case is whether something like this is simply not spot zoning which as everyone is aware is illegal. He said that some of the factors that are reviewed during determining whether or not spot zoning has occurred are whether it seems to be an arbitrary decision made by a government entity to change the zoning designation, as with the subject property, whether there was no transition from the more restrictive to less restrictive zoning designation, whether the zoning change was made to an individual parcel outside of any comprehensive or land use plan that the municipality has undertaken. He said that all of these factors are true and consistent with the subject property included in their case. He said that if you look at the City of Champaign’s Comprehensive Plan you will notice that they haven’t even planned to go out to the area of the subject property. He said that even if *Chatham* did allow something like this he believes that this is a good case of spot zoning.

Ms. Melin asked if municipalities normally annex parcels that are contiguous.

Mr. Barickman stated that in order to annex a parcel of land into the municipality the parcel must be contiguous. He said that the distinction is whether a pre-annexation agreement is legal. He said that the big item during *Chatham* was that there can be an agreement that if your property ever becomes contiguous then the municipality will annex your property in exchange for some service.

Mr. Hal Barnhart, who resides at 469 CR 1500N, Champaign addressed Item #9 and Item #10 of the agenda. He said that he is not in attendance of the meeting to represent the Champaign County Farm Bureau but would like to share with the Committee one statement from the *2007 Illinois Farm Bureau Policy Manual* which states the following: “We will oppose non-contiguous annexation agreements and the ability of municipalities to apply their ordinances to parcels that have not annexed.” He commended staff for their efforts in bringing this issue to light.

Mr. Barnhart reviewed Resolution 5942, which was the resolution that passed the County Board in April 2007. He said that the resolution had three parts one was that the legislative commission which was established at the State level should continue working and should propose a comprehensive amendment to the Illinois Municipal Code that would ensure a rational and equitable resolution to the issues raised in the *Chatham* decision. He said that the provisions of House Bill 3597 should apply to all counties that have adopted a zoning ordinance and House Bill 3597 should include Champaign County on the list of counties to be exempt. He said that the draft resolution which is before the Committee tonight for recommendation seems to be a good thing but it is only a start. He said that if this resolution is passed by the County Board we are still relying on the good will of the municipalities and villages of the county to adopt it also. He said that if they do adopt it we will probably get back 70% of what was lost but there is still a lot of mischief that can happen out in that one-and-one half mile area and there are still concerns about who represents the property owner’s interests in a particular zoning case. He said that if the County is no longer able to represent the property owner’s interest and they have no vote in terms of municipal trustee or board members then they are pretty much out their on their own without a voice.

1 Mr. Bruce Knight, City of Champaign Planning Director, stated that he would like to speak in favor of Item
2 #10. He said that the City of Champaign has always been supportive of inter-governmental agreements and
3 has boundary agreements with Urbana, Savoy and Mahomet. He said that the City of Champaign currently
4 has an agreement with Champaign County with regard to development in the County which was enacted
5 before *Chatham* was an issue therefore including *Chatham* makes sense. He said that the City of Champaign
6 has an agreement with the Urbana-Champaign Sanitary District that speaks to what happens when somebody
7 requests connection to a sanitary sewer system and *Chatham* has certainly changed the map on how
8 development occurs outside of the corporate limits of cities. He said that gaining an understanding of what
9 is needed in the County is an important thing and warrants ongoing dialogue. He noted that on an ongoing
10 basis the City of Champaign has no interest in approving development beyond their one-and-one half mile
11 jurisdiction or beyond what is normally planned for in their comprehensive plan. He said that the water
12 treatment facility is a unique case that has to do with the sighting of a utility and not a development project.
13 He said that utilities need to be sighted in a location that makes sense from an engineering and technical
14 standpoint not for other reasons. He said that this was the case 40 years ago when the Urbana-Champaign
15 Sanitary District placed the southwest treatment plant miles beyond existing urban development and
16 eventually the city grew out to it. He said that it did not create an onslaught of slot development around it or
17 open up all kinds of other development opportunities but only provided for that utility service to an efficient
18 and effective service over many years when that large of an investment is made.

19
20 Mr. Knight stated that the Regional Planning Commission has recently asked its staff to work on setting up a
21 county wide forum to discuss the *Chatham* issue between municipalities and county officials. He said that
22 this is a very good idea and is a perfect follow on to the proposed resolution because it can be the forum by
23 which the municipalities and county start to have that conversation. He said that first there needs to be
24 education as to what *Chatham* actually means, the issues in regards to planning for future development and
25 delivering services to those developments and what is an appropriate agreement between the county and the
26 incorporated areas of Champaign County. He said that the City of Champaign is very supportive of the
27 proposed resolution and he believes that it does make sense for any kind of actual development of property
28 and if this was in place the County would have had the choice to decide whether it wanted to handle the
29 sighting of the water treatment facility or not. He said that part of the reason why the City of Champaign felt
30 that it was appropriate to handle this case was because it is within their boundary line area under their
31 boundary line agreement with the Village of Mahomet. He said that the agreement between Champaign,
32 Urbana and Savoy and the Sanitary District allowed Bondville to enter into the sanitary district as a member
33 and eventually receive treatment services from the sanitary district. He said that they would be limited to a
34 facility planning area that would be controlled by the sanitary district and so while it is beyond the City of
35 Champaign's one-and-one half mile jurisdiction it is a project that serves the urban area. He said that the
36 County does not have a building code at this point and time but the City of Champaign does and it was
37 determined that regulating the construction of such an important public facility was very important.

38
39 Mr. Robert Myers, City of Urbana Planning Manager stated that he would also like to speak in favor of an
40 Intergovernmental Agreement between the municipalities and the County concerning annexation agreements.
41 He said that at this point the City of Urbana staff has discussed this topic at a staff level and has determined
42 that they support the resolution. He said that Mayor Prussing has previously indicated her support for

1 cooperation and agreement between the municipalities and the County about limiting annexation agreements
2 although this specific resolution has not been reviewed by Mayor Prussing. He said that the City of Urbana
3 has reviewed their own annexation agreements at this point with all of the properties which have pre-
4 annexation agreements with are either contiguous or within one-quarter of a mile of the City of Urbana's
5 boundaries. He said that his understanding of the *Chatham* case is that the question is not the amount of
6 distance but the jurisdiction. He said that the City of Urbana and other municipalities have instances where
7 the city may have a pre-annexation agreement for a property but the County still has control of whatever
8 code would apply to the property. He said that the *Chatham* case states that if a property owner has a pre-
9 annexation agreement with a municipality then the municipality is responsible for all code aspects for the
10 property. He said that he is not sure if the municipalities want to do the dog catching out to one-and-one half
11 miles of the city's boundaries or if there is a falling down barn does the city want to have the responsibility
12 for removal or enforcement of that dangerous structure. He said that it has always been his understanding
13 that until a property is actually annexed in to the city the property is still under the jurisdiction of the County.

14
15 Mr. Doenitz requested that Mr. Knight approach the public participation podium to answer a question
16 regarding Item #10.

17
18 Ms. McGrath stated that a motion will be required to request suspension of the rule for discussion of Agenda
19 Item #10.

20
21 **Mr. Doenitz moved, seconded by Mr. Schroeder to suspend the rules. The motion carried by voice**
22 **vote.**

23
24 Mr. Doenitz asked Mr. Knight why the City of Champaign would not give the County the chance to do the
25 right thing instead of the City of Champaign doing the "big brother" thing and doing it for us.

26
27 Mr. Knight stated that there was no intent for the City of Champaign to act like a big brother. He said that
28 the water company came to the City of Champaign to start discussions and some conversations were held
29 with the County's staff. He said that at the request of the water company the City of Champaign agreed to
30 work with them and take their request to their council for a study session to seek direction as to whether to
31 pursue an annexation agreement or not. He said that the council gave the direction to pursue an annexation
32 agreement and from the standpoint of the City of Champaign, a determination had to be made whether the
33 treatment facility needed to be located near the well field. He said that there was certainly disagreement on
34 that issue but ultimately the plan commission and council felt that the company had demonstrated that it was
35 important for the facility to be located near the well field.

36
37 Mr. Doenitz stated that his issue is with the procedures which were followed for this facility not its location.

38
39 Mr. Knight stated that if Mr. Doenitz's issue is with the procedures that were followed then he should be
40 supportive of an intergovernmental agreement to set up an understanding between municipalities and the
41 County with regard to the use of *Chatham* because currently the understanding is that there is no limit on
42 that.

1
2 Mr. Doenitz stated that he does not disagree but he believes that Mr. Knight is talking out of both corners of
3 his mouth.
4
5 Mr. Knight stated that he is only trying to answer his question in the best way that he can. He said that,
6 based on a memoranda from the State’s Attorney’s Office, the point of fact is that there is no current
7 limitation as far as the City of Champaign’s legal staff is concerned in understanding the City of
8 Champaign’s relationship with the County. He said that the water company, a facility which is very
9 important to the city for public services, came to the City of Champaign and asked that the city work with
10 them with an annexation agreement and the city council instructed staff to do so. He said that without some
11 limitation other than that it was felt that such an agreement would be appropriate.
12
13 Mr. Doenitz stated that the roads are under the jurisdiction of Scott Township. He asked if the water
14 company has contacted Scott Township about any proposals in alleviating any problems that may occur with
15 the roads.
16
17 Mr. Knight stated that the water company will pay taxes to the township until such time that the property is
18 annexed into the City of Champaign and for 10 years thereafter the City of Champaign will reimburse that
19 level of township tax. He said that this is a significant increase in their overall EAV once the facility is up
20 and running which should cover the expense of road improvements.
21
22 Mr. Weibel stated that he too is concerned about the steps that were taken for this facility and feels that it
23 was very self-serving.
24
25 Mr. Schroeder stated that he and Mr. Moser attended the City of Champaign’s Council meeting and gave
26 testimony. He said that what was missed was the frustration of Scott Township with lack of representation
27 from the city council. He said that the City of Champaign resides in the County of Champaign but the City
28 of Champaign does not reside out in the County. He said that when the City of Champaign decided to spot
29 zone, and this is a spot zoning case, in an agricultural district outside of the City of Champaign’s ETJ and
30 designate that area as industrial with 5 ton oil and chip roads. He said that an unknown amount of 40 ton
31 trucks will be brought in each day potentially breaking down existing farm tiles that are under the roads or
32 adjacent fields where there are sensitive areas is a concern. He said that there is no representation or
33 repercussion for a city council until the facility exists and is annexed and this will not take long. He said that
34 before North Prospect Avenue was developed he was on the Zoning Board of Appeals and this development
35 was brought before the County ZBA. He said that this development was before the County had a
36 Stormwater Management Policy but there was a pre-annexation agreement with the City of Champaign and
37 the hearing process was completed granting the request. He said that one of the engineers that came to the
38 meeting stated that since the area was poorly drained they were going to divert the water into a drainage
39 ditch and when they got to Olympia Drive they would cross to the northeast to the railroad ditch. He said
40 that although this all sounded good the diversion never took place and what did happen the water was pulled
41 from lift stations and pumped to the big ditches along Prospect Avenue and Mr. Kesler’s field became
42 drenched. He said that there is a big disconnect between urban planning and what goes on out in the rural

1 areas and when the Director of Planning states that it is not a big deal because there is a lot of agricultural
2 equipment that moves up and down the roads daily he is incorrect. He said that a 20 ton vehicle is outside
3 the scope of reality in physics out there because these people who own these one-half ton vehicles are a
4 target. He said that people do not realize that they are outweighed by ten or twenty tons when they travel on
5 these rural roads as if they were major highways. He said that larger and larger agricultural equipment does
6 exist on these rural roads but the daily beating of those 40 ton trucks has a real impact on the those rural
7 roads. He said that he told the Scott Township Road Commissioner that he should hand the water company
8 a bill with a 40 ton limit on those roads because the revenue that the township is going to get is not going to
9 be comparable to build those roads up and maintain those roads. He said that the City of Champaign is
10 going to continue growing to the southwest and it is obvious that the new Curtis Road exit is going to open
11 things up and it is a concern as to what type of development will occur around that area. He said that
12 *Chatham* has opened up the door and it has been mentioned that Tolono and Savoy are going to jump in to
13 the one-and-one-half mile. He said that Champaign County is trying to put together a comprehensive land
14 use plan and there is no way that Champaign County will have a comprehensive land use plan like McLean
15 County because there is no cooperation. He said that the County has nothing in the Ordinance to force the
16 water company to install any type of vegetative buffers although the special use process could require that
17 they install buffers. He said that he appreciated Mr. Knight's presence at tonight's meeting and that he
18 allowed everyone to throw bricks at him but there is a real disconnect in Champaign County in that it is not a
19 unified county that tries to be a county that plans together. He said that he believes that it all begins at the
20 Regional Planning Commission where we have lost our focus and what the original charter is for the RPC
21 which is for regional planning in the county and it isn't for that anymore and the RPC has changed into
22 something else and that really bothers him.

23
24 Mr. Knight stated that he appreciates Mr. Schroeder's concerns and he understands the frustration but he can
25 only say that the City of Champaign has worked cooperatively with the County in most every case. He said
26 that there is a current intergovernmental agreement in place which deals with development as well as with
27 roads. He said that the City of Champaign is extremely supportive of the Champaign County Land Resource
28 Management Plan and the City of Champaign is also in the process of updating their comprehensive land use
29 plan. He said that their comprehensive plan is updated every five years and when they do this county
30 officials are included on steering committees and focus groups because it is understood that there is an
31 important relationship between the two government bodies. He said that he understands that there is
32 confusion as to why the City of Champaign supports the proposed intergovernmental agreement when the
33 City of Champaign has taken action different than that before. He said that the action that was taken before
34 was consistent with both their intergovernmental agreement as well as with the County Policy as stated by
35 the State's Attorney's Office with the use of *Chatham* in Champaign County. He said that this is a helpful
36 thing and it will improve the City's and County's relationship and continue to be the kind of cooperation that
37 they have had historically.

38
39 Mr. Robert Ore, who resides at 2508 Bedford Drive, Champaign stated that he lives in the Windsor Park area
40 which is located between the City of Champaign and Savoy. He said that he would like to speak in favor of
41 the County enforcing landscape burning regulations for unincorporated areas. He said that there are a
42 number of people in their neighborhood that the burning adversely affects their health and having looked at

1 what the State of Illinois law actually states it is clear that none of these laws are being enforced because one
2 of the regulations is that no burning is to occur in the street and many of these people burn in the public
3 street and people are not to burn on windy days and that is not observed nor enforced. He said that there has
4 been many times when smoke obscures Windsor Road and this road is located within the city of limits of the
5 City of Champaign where no burning is allowed. He urged the Board to help with the enforcement of the
6 regulations.

7
8 **5. Correspondence**

9 **A. Mahomet Aquifer Consortium e-mail dated August 4, 2007, regarding field trip**
10 **reservations for August 15, 2007, 9:00 to 11:30 p.m.**

11
12 Ms. McGrath cautioned the Committee on the number of ELUC members that attend the field trip and
13 suggested that perhaps a portion attend the morning and afternoon sessions so that the Open Meetings Act is
14 not an issue.

15
16 **The Committee accepted and placed on file the correspondence from the Mahomet Aquifer**
17 **Consortium e-mail dated August 4, 2007.**

18
19 **6. Recreation and Entertainment License: Lake of the Woods Bar and Grill, 204 S. Prairie View**
20 **Road, Mahomet, IL, August 14, 2007 thru December 31, 2007.**

21
22 **Mr. Doenitz moved, seconded by Mr. Schroeder to approve the Recreation and Entertainment License**
23 **for Lake of the Woods Bar and Grill, 204 S. Prairie View Road, Mahomet, IL, August 14, 2007 thru**
24 **December 31, 2007. The motion carried by voice vote.**

25
26 **7. Zoning Case 555-AM-06: Petitioner: James T. Battle. Request to amend the Zoning Map to**
27 **change the zoning district designation from the B-3, Highway Business Zoning District to the**
28 **B-4, General Business Zoning District. Location: A 5.0 acre tract located in the Northeast ¼**
29 **of the Northeast ¼ of Section 24 of Hensley Township and commonly known as the field north**
30 **of the I-57 interchange in Section 24 of Hensley Township.**

31
32 **Mr. Schroeder moved, seconded by Mr. Doenitz to recommend approval of Zoning Case 555-AM-06,**
33 **James T. Battle with special conditions.**

34
35 Mr. Hall stated that the Zoning Board of Appeals voted to recommend approval subject to conditions for this
36 case at their July 19, 2007, meeting. The proposed rezoning is within Hensley Township. The township has
37 considered this case and sent a letter to the ZBA indicating they would protest the rezoning, no formal
38 protest has yet been received but it is expected that receipt of that protest will be before this case goes before
39 the County Board.

40
41 Mr. Weibel asked Mr. Hall if the protest is received prior to the County Board meeting what effect will it
42 have on tonight's action by this Committee.

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Mr. Hall stated that the protest will not necessarily have any effect on tonight’s action and it only affects a vote by the County Board in that it will require a super-majority vote.

Mr. Schroeder asked Mr. Hall how many lots in this area were zoned B-4, General Business Zoning District.

Mr. Hall stated that there are none.

The motion carried by voice vote.

8. Revisions to County’s Nuisance Ordinance:

A. Proposal to require marking of telephone pedestals in rural areas

Mr. Hall stated that his latest understanding from the State’s Attorney’s Office is that there is no authority to requiring the marking of telephone pedestals.

Ms. McGrath stated that upon the request of this Committee she did investigate the question to see if the County had any authority to regulate the marking or maintenance of telephone pedestals in the County. She said there is an Attorney General’s opinion that was written in 1994 that basically states that telephone equipment of any kind, including pedestals, are not subject to regulations by the County but are subject to the regulations of the Interstate Commerce Commission. She said that there is no language in the regulations of the Interstate Commerce Commission that says anything about the marking of the pedestals. She said that up until five years ago there used to be language in the ICC’s regulations but unfortunately that language has mysteriously vanished. She said that unfortunately there is nothing that the Commerce can do to regulate that issue and the only thing that the County could do would be to file something with the ICC to bring this question to their attention.

Ms. Wysocki stated that basically there is nothing that the County can do in relation to this subject.

Ms. McGrath stated no, unless the County wants to bring the question to the Commerce Commission.

Mr. Schroeder asked Ms. McGrath what would bring this question to the attention of the Interstate Commerce Commission entail.

Ms. McGrath stated that it would not be complicated but there is a method by which the County can ask the ICC to change regulations regarding the pedestals. She said that there is nothing in the regulations that says that the County can do that but she believes that it can be done by a petition to the Commission.

Mr. Schroeder asked Ms. McGrath if a letter from Champaign County requesting action for the pedestal issue would be appropriate.

1 Ms. McGrath stated that a letter would be a good start. She said that it would probably be better if it came to
2 the ICC by a resolution.

3
4 **Mr. Schroeder moved, seconded by Mr. Doenitz to direct staff to develop a communication with the**
5 **ICC regarding the marking of telephone pedestals. The motion carried by voice vote.**
6

7 **B. County obligation to enforce burning regulations in unincorporated areas**
8

9 Mr. Hall stated that there have been a number of previous requests regarding the County’s burning
10 regulations and to date, based on the hesitancy of adding new regulations when staff is having trouble
11 enforcing all of the current regulations, the County Board has not decided to adopt burning regulations. He
12 said that recently Jamie Hitt, Zoning Officer received a letter from Darwin Fields, Environmental Protection
13 Engineer, Bureau of Air, making us aware that we are obligated to enforce some burning regulations that are
14 already under State law. He said that at the same time that Mr. Fields made staff aware that we are obligated
15 to enforce some burning regulations he also made staff aware that we are not obligated to enforce landscape
16 waste burning regulations, this is optional. He said that the obligation to enforce burning regulations only
17 applies to a one mile area around municipalities. He said that the letter from the EPA was received in May
18 2007 and then just after the June ELUC meeting he received an inquiry from Mr. and Mrs. Ore and they
19 requested that the County adopt burning regulations. He said that the Draft Amendment to the Champaign
20 County Nuisance Ordinance, which was included in the mailing packet, is not ready to be adopted and is
21 only preliminary. He said that the amendment would adopt all of the burning regulations that the County is
22 empowered to adopt which would include the following: domicile waste within the one mile area around
23 municipalities as well as landscape waste within 1000 feet around municipalities. He noted that the County
24 is not obligated to adopt the landscape waste burning although he believes that the burning of landscape
25 waste has been the topic of many of the requests made to this Committee. He said that this burning
26 regulation will not have any effect on the burning of anything that is more than one mile from municipalities.
27 He said that he would not recommend that the Committee take any action on this issue tonight. He said that
28 he has reviewed this issue with the State’s Attorney’s Office and in order to enforce the regulations that we
29 are obligated to enforce it would be much better to have our own ordinance to implement that enforcement.
30

31 Mr. Doenitz asked Mr. Hall if the enforcement would be one mile from the actual boundaries of the
32 municipality or the municipality’s ETJ.
33

34 Mr. Hall stated that the enforcement would be one mile from the actual boundary.
35

36 Mr. Doenitz asked Mr. Hall who would do the enforcement because the County cannot take care of the
37 enforcement that we currently have.
38

39 Mr. Hall stated that to date we have had trouble keeping up with all of the enforcement in the County but
40 there have been changes made in the office and hopefully those changes will help staff do a better job. He
41 said enforcement is always going to be a big issue and if the County chooses to adopt burning regulations in
42 regard to landscape waste it will probably only be a big deal during the fall season. He said that it might

1 merit a higher priority than it would otherwise but on the priority schedule that was adopted in the past in
2 regards to enforcement if something was posing a risk to public, health or safety it receives a high priority.
3 He said that clearly the burning of landscape waste or domicile waste, if you are the neighbor that it affects,
4 is a big issue and the County is obligated to enforce it.
5

6 Mr. Doenitz asked if the fire protection district has an ordinance regarding such burning.
7

8 Mr. Hall stated that he does not know if most of the fire protection districts have an ordinance regarding the
9 burning of landscape or domicile waste. He said that the draft would actually enforce any rules that the fire
10 protection districts already have and the property owner would have to be in conformance with their local
11 fire district or they would be in violation of the draft ordinance. He said that even if the fire protection
12 districts had their own regulations the County is still obligated to enforce the State rules. He said that he
13 does not know if the County could get fined from the EPA.
14

15 Ms. McGrath said that it could.
16

17 Mr. Weibel asked if domicile waste would include newspapers, cardboard, etc.
18

19 Mr. Hall stated that domicile waste is meant to be anything other than food related waste.
20

21 Mr. Weibel asked if this ordinance would only affect the unincorporated areas of Champaign County.
22

23 Mr. Hall stated yes.
24

25 Mr. Weibel asked if there is a complaint on the weekends then they should call the local authority such as the
26 Sheriff.
27

28 Mr. Hall stated yes, the County's Nuisance Regulations are enforceable by the Sheriff's office. He said that
29 the Planning and Zoning office is not open on weekends but the Sheriff's office is available 24 hours a day
30 and 7 days per week.
31

32 Ms. McGrath stated that the Sheriff's office can take the complaint while it is occurring but the problem that
33 the Sheriff's office has is that they do not have the authority to enforce the burning ordinance. She said that
34 even though the State regulation has been in effect since 1993, the County has not done anything to
35 incorporate it into our Ordinance. She said that the EPA has been working with the County to have it
36 incorporated into our Nuisance Ordinance but the language in the State Statute that talks about open burning
37 is mandatory and the County does not have a choice whether to enforce it or not. She said that when she and
38 Mr. Hall discussed this issue they wanted to make sure that it would not have an adverse impact on burning
39 in areas where it could occur and Items #(4), (5), (6) and (7) of Page 71 of the mailing packet indicates those
40 areas. She said that from the Sheriff's point of view the amendment to the Nuisance Ordinance will be
41 helpful in that it will make it clear as to what they are suppose to do when they receive these complaints.
42

1 Ms. Hitt asked Ms. McGrath if it is true that the Sheriff's office could issue a ticket or notice to appear to the
2 violator.

3
4 Ms. McGrath stated yes.

5
6 Ms. Hitt stated that she will be the one to investigate the violation and she has no authority to give the
7 violator a ticket or notice. She said that the Sheriff's visit will be more effective than her visit and she can
8 only investigate a complaint if it occurs Monday thru Friday, 8:00 A.M. to 4:30 P.M.

9
10 Ms. McGrath stated that currently if there was a case of illegal dumping the Sheriff would go out and take
11 the report and issue a ticket for violation of the Ordinance and the burning violation would just be an
12 additional component to that process.

13
14 Mr. Doenitz stated that we can't get the Sheriff's office to tow cars that are parked in a lane of traffic
15 therefore do you really think that we are going to get them to write tickets for a fire.

16
17 Ms. McGrath stated that she cannot say anything about the towing issue but in other aspects of the Nuisance
18 Ordinance she can say that the Sheriff's office has been really good about dumping and other issues that
19 people have complained about. She said that she has worked with Lieutenant Jones at the Sheriff's office in
20 designing the ticket so that it would make it much easier for the deputy on call to write the ticket for the
21 violation.

22
23 Mr. Jones asked if the smaller villages have burning requirements. He said that he does not want to have a
24 situation where people in the city can burn and people outside the city or village limits cannot burn.

25
26 Mr. Hall stated that the regulations regarding domicile waste already apply in the municipal areas. He said
27 that he has not had a chance to contact each municipality but he does know that Champaign, Urbana and St.
28 Joseph do not allow the burning of landscape waste.

29
30 Mr. Schroeder stated that if Ms. Hitt cannot enforce this stuff then there needs to be some type of provision
31 where she can enforce it with a ticket or not or put all of this on the Sheriff's office.

32
33 Ms. McGrath stated that traditionally it has been up to the Sheriff's office to write the ticket and then us to
34 do the enforcement. She said that there are no administrative rules adopted to allow Ms. Hitt or someone
35 else in the Zoning Office to issue a ticket for enforcement. She said that if the County desires to adopt an
36 administrative rule which allows Ms. Hitt or someone else in the Zoning Office the ability to issue tickets for
37 enforcement of the burning regulations then there must be some type of administrative method for appeal.

38
39 Mr. Schroeder stated that if the County does pass some type of burning ordinance there has to be some way
40 to notify people who reside within one mile of the city limits of what is going on. He said that he does know
41 that people in Sadorus and Ivesdale can burn but the fire protection district does require that any outside
42 burning must be reported to the fire protection district prior to the event. He said that he does not feel that it

1 is fair for Champaign and Urbana to have ordinances on burning yet you can go outside of the city limits and
2 burn.

3
4 Mr. Weibel asked if there was a penalty for burning.

5
6 Ms. McGrath stated that there is a maximum of \$500 per day with a minimum of \$100 per day.

7
8 Mr. Hall stated that the proposed Draft Ordinance would only prohibit the burning of landscape waste within
9 1000 feet of a municipality that has that prohibition. He said that it very important that the County knows
10 which municipalities and villages have such a prohibition.

11
12 Ms. Hitt stated that the irony of all of this is that there a couple of villages that have adopted burning bans
13 but they will pick up your landscape waste and take it outside the city limits to burn.

14
15 Mr. Schroeder stated that if we adopt this as County are we doing the EPA's job in regard to burning.

16
17 Ms. McGrath stated that even though the EPA has jurisdictional authority it is up to the County to enforce
18 the regulations.

19
20 Ms. Melin asked what type of procedure would be used for public announcement of this prohibition.

21
22 Mr. Hall stated that a legal advertisement could be placed in the newspaper. He said that an easier way, if
23 the budget allows, would be for the County to advertise a public announcement in all of the local papers. He
24 said that perhaps there could be a special enforcement period where we just notify people that it is a
25 violation.

26
27 Ms. McGrath stated that a special enforcement period cannot happen. She said that a press release could be
28 sent out and notice could be placed on the County's website.

29
30 Mr. Hall stated that a press release draft could be available at the September meeting for ELUC's review.

31
32 **Item #8.B was deferred to the September 10, 2007, ELUC meeting.**

33
34 **C. Other potential changes**

35
36 Ms. McGrath stated that a comprehensive rewrite of the entire Nuisance Ordinance is being considered
37 because the Nuisance Ordinance has not been rewritten, other than some small changes, since 2002. She
38 said that there are some areas where the County continuously receives complaints on such as burning and
39 noise. She said that probably the entire Nuisance Ordinance will come before the Committee in October so
40 that discussion can take place as to what areas need revision.

41
42 **Item #8.C was deferred to the October 9, 2007, ELUC meeting.**

1
2 **9. City of Champaign annexation agreement with Illinois-American Water Company for a**
3 **proposed water treatment plant in Section 1 of Scott Township and potential role of**
4 **Champaign County in litigation involving annexation agreement.**
5

6 Ms. McGrath stated that she requested that this item be placed on the agenda because several of the
7 Committee members have expressed interest in figuring out what goals that the County might have not only
8 responding to what happen in this particular issue but also to see what the Committee's feelings are about
9 potential involvement in litigation that might be possible for Champaign County. She said that nothing has
10 been filed yet but if a lawsuit was filed the County could ask the court to hear the County's side of how the
11 issue should be resolved. She said that the County could also decide to wait until the litigation is filed
12 because there could be a request made to the court to require that the County be involved in the law suit.
13 She said that currently she has not formed an opinion on what she thinks the County Board should do and
14 how the *Chatham* case affects this particular parcel and is not convinced one way or the other because it does
15 not appear as clean cut as Mr. Knight has indicated. She said that as usual there are times when the Supreme
16 Court makes a decision and it leaves it up to us to deal with and it may be that this pending case could clarify
17 the law. She said that she would like to know what questions the Committee has regarding this pending case
18 so that while she is doing her research she can find the appropriate information to best answer those
19 questions.
20

21 Mr. Doenitz asked Mr. Knight if the appropriate information for Ms. McGrath to base her decision is
22 forthcoming.
23

24 Mr. Knight stated that the information is forthcoming.
25

26 Ms. Wysocki asked Ms. McGrath if she will have enough information to give direction to the Committee
27 and the County Board.
28

29 Ms. McGrath stated yes.
30

31 **Item #9 was deferred to the September 10, 2007, ELUC meeting.**
32

33 **10. Proposed Intergovernmental Agreement regarding development pursuant to municipal**
34 **annexation agreement that is more than one-and-one half miles from the municipality.**
35

36 **Mr. Schroeder moved, seconded by Mr. Doenitz to recommend approval of the Proposed**
37 **Intergovernmental Agreement regarding development pursuant to municipal annexation agreement**
38 **that is more than one-and-one half miles from the municipality.**
39

40 Mr. Schroeder asked Ms. McGrath how binding would this agreement be.
41

42 Ms. McGrath stated that if the City of Champaign decides that they do not wish to endorse this agreement

1 then there is no way that the County can make them do so. She said that she believes that the City of
2 Champaign and the City of Urbana do have good intentions or they would not have sent staff to this meeting.
3

4
5 Mr. Schroeder stated that the City of Urbana has been excellent in development within their ETJ because it
6 has been contiguous, compact and flows nicely. He asked Ms. McGrath how many other municipalities are
7 on board with this agreement.
8

9 Mr. DiNovo stated that when this was discussed at the Regional Planning Commission elected officials there
10 was disagreement and there were clearly different points for view from one of the members. He said that the
11 representative from Rantoul seemed to be very protective of their economy.
12

13 Mr. Schroeder stated that the can of worms has been opened. He said that he intends to attend the next
14 Tolono Village Board meeting to speak about the *Chatham* case because once again it is a case where there
15 will be no representation in areas with high density and no utilities. He said that the County Board has been
16 trying to strangle some of the density in the rural areas.
17

18 Mr. DiNovo stated that if the *Chatham* case is reviewed it only looked on zoning for building lots but if you
19 look at the municipal code there is nothing that would indicate that this authority is limited to building lots.
20 He said that when someone signs an annexation agreement the municipality takes complete responsibility for
21 the property and one of the big problems is enforcement of that municipality's Ordinances for compliance.
22 He said that the municipalities have to be educated on what types of responsibilities they are taking on when
23 the sign these annexation agreements.
24

25 Ms. Wysocki asked Mr. DiNovo if there was a possibility that the RPC will hold a meeting to gather all of
26 the municipal officials to discuss *Chatham*.
27

28 Mr. DiNovo stated that hopefully such a meeting will be organized and noticed in September.
29

30 Ms. Wysocki asked if there was a benefit for the Committee to consider a resolution to this effect until some
31 of this dialogue has happened or if the resolution is recommended for approval is the Committee going to
32 only receive positive and negative comment. She asked if there would be a benefit to consider the timing of
33 the Committee's recommendation.
34

35 Mr. Hall stated that knowing that the County is seeking such an agreement would add focus to the RPC
36 forum on *Chatham* and without this agreement it seems that the forum would not be so urgent.
37

38 Ms. Wysocki stated that we are looking to have the County Board adopt this agreement which would then be
39 forwarded to the other municipalities for similar adoption.
40

41 Mr. Hall stated that this resolution would direct staff to prepare a specific agreement for the Committee's
42 review. He said that this just gets the ball rolling and without this staff doesn't have a cause to get together

1 to even develop a draft agreement.

2
3 Mr. Weibel stated that it isn't known what all needs to be included in the final version of this agreement.

4
5 Mr. DiNovo stated except that the resolution would give marching orders to staff. He said that the language
6 needs to be looked at carefully because this amounts to the County's bargaining position and the County will
7 not get anything better than what is put into the resolution. He said that the County wants to be sure that
8 whatever is placed on the table is not the least thing that the County would be comfortable in accepting.

9
10 Ms. McGrath stated that the resolution is only a draft version and not a final version.

11
12 Ms. Busey stated that at the RPC meeting it was determined that the RPC would facilitate a discussion on
13 this issue with all of the municipalities of the County. She said that at some point in the near future the
14 meeting would work on some consensus on what direction all the entities would like to see in regards to this
15 issue. She asked why the County is jumping out ahead before this discussion has taken place.

16
17 Mr. DiNovo stated that it is staff's understanding that the Commission's direction was that there will be a
18 forum that is not focused on negotiating a countywide agreement but to get the discussion going.

19
20 Ms. Busey asked Mr. DiNovo if the County would not want to wait until that discussion took place before
21 the County moves forward on this issue.

22
23 Ms. Wysocki stated that she attended the same RPC meeting and she was under the same impression as Ms.
24 Busey in that the discussions would come first and from that the resolution would be drafted and the
25 Committee would receive some direction from staff as to how to move forward with the idea that all of the
26 municipalities would sign off on it.

27
28 Mr. DiNovo stated that it could be helpful if the County took some sort of action on this issue it would
29 capture the attention of the municipalities and perhaps gain more participation in this forum. He said that he
30 would urge the Committee to be more open ended about the contents because the resolution is very specific.

31
32 Mr. Hall stated that this gives the County the chance to be perfectly clear about what they do not want to see
33 happening in the County. He said that if the County does not adopt such a resolution he has nothing to give
34 the next person that calls and asks about the County Board's position on an issue like this. He said that he
35 would hope that a final agreement would do more than what the draft resolution proposes and he would
36 appreciate some help revising it so that it doesn't appear that it answers all of the questions because it surely
37 does not. He said that he cannot see the harm in having something on record, officially adopted by the
38 County Board that makes everyone aware that the County Board is hoping to have some kind of agreement
39 in place sometime. He noted that this is not the agreement it only states that the County is going to work
40 towards it.

41
42 Mr. Doenitz stated that this agreement will not be worth the paper that it is written on because there are no

1 repercussions if one of the municipalities signs this agreement but does not adhere to it.

2
3 Ms. Wysocki stated that this is the nature of intergovernmental agreements because they are all based upon
4 the good will of all of the entities.

5
6 Mr. Doenitz stated that the bull is already out the gate and the County is trying to shut the gate.

7
8 Ms. Melin stated that in April it was discussed that the County wanted to assist with a bill including
9 Champaign County.

10
11 Mr. Hall stated that the senator who was involved indicated that he had another bill developing that could
12 include Champaign County but it is unknown when that process will start.

13
14 Ms. McGrath stated that with the budget not being settled to date it is hard to say when anything will take
15 place.

16
17 Mr. Weibel asked if it would be appropriate to promote such an agreement between municipalities that are
18 close together.

19
20 Mr. Hall stated that the final agreement would have to address things like that.

21
22 Mr. Knight stated that he agrees that ultimately whatever agreement is structured between the municipalities
23 and the County should encourage boundary agreements. He said that boundary agreements are extremely
24 healthy and lead to good relationships between the adjoining municipalities and the communities should be
25 encouraged to have comprehensive plans which would require leading by example by having its plan
26 completed. He said that he wouldn't disagree that the one-and-one half mile ETJ is a random number and is
27 not necessary the final answer therefore praising your resolution to indicate the kind of outcomes that the
28 County wants to promote such as: better planning, boundary agreements between the communities and
29 logical placement of development through the use of the *Chatham* power is maybe a better approach. He
30 said that his understanding is that intergovernmental agreements, depending on how they are written, are
31 binding and there is recourse to them. He said that the City of Champaign's intergovernmental agreements
32 require both parties to be in agreement prior to being able to end the agreement and it is probably not a
33 perfect solution but relying on Illinois legislation, given the track record, is also less than perfect as well. He
34 said that passing a resolution, perhaps not exactly worded like the one presented at tonight's meeting,
35 promotes agreements between the municipalities and the County as a basis for starting the dialogue is a good
36 way to give focus to the forums that the Regional Planning Commission has suggested.

37
38 Ms. Wysocki asked the Committee if they desired to send the resolution back to staff for revision.

39
40 **Mr. Doenitz moved, seconded by Mr. Gladney to defer Item #10 to the September 10, 2007, ELUC**
41 **meeting.**

1 Mr. Schroeder asked staff if they had enough direction.

2
3 Mr. Hall stated yes.

4
5 **The motion carried by voice vote.**

6
7 **11. City of Champaign Request for increased County Contribution to Offset Cost of Drop-Off**
8 **Recycling Site**

9
10 Mr. Doenitz asked why this agenda item came to two committees. He said that this agenda item was just
11 before the Finance Committee.

12
13 Ms. Busey stated normally ELUC has oversight on this issue but because it will be included in the Fiscal
14 2008 budget it had to be presented to the Finance Committee.

15
16 Mr. Doenitz asked if the information that was requested at the Finance Committee meeting is now available
17 for review.

18
19 Ms. Busey stated no. She said that because we do not have all of the answers to date the Committee could
20 defer this agenda item to the September 10, 2007, ELUC meeting.

21
22 **Mr. Schroeder moved, seconded by Mr. Jones to defer Item #11 to the September 10, 2007, ELUC**
23 **meeting.**

24
25 Mr. Schroeder stated that the letter from the City of Champaign indicates the cost of the County's share for
26 the recycling site. He said that this figure is asinine and we should not pay the reported amount because they
27 are going purely on the population of the County figuring 18%. He said that he doesn't even know where the
28 drop-off site is located in Champaign.

29
30 Mr. Weibel stated that he lives in Champaign and he does use the drop-off site.

31
32 Mr. DiNovo stated that he lives in the unincorporated area of St. Joseph Township and he is already paying
33 taxes to help support the St. Joseph drop-off site therefore why does the City of Champaign want a
34 contribution from him for their drop-off site.

35
36 Ms. Melin stated that she has a friend in Monticello who utilizes the City of Champaign drop-off site.

37
38 **The motion carried by voice vote.**

39
40 **12. Resolution Adopting the Champaign County Solid Waste Management Plan 5-Year Update**

41
42 Ms. Monte stated that in 1991, the Champaign County Board adopted a *Champaign County Solid Waste*

1 *Management Plan* and the plan is updated every five years. She said that this is the last five year update that
2 is required by the State and the update carries forward the 2002 recommendation with the addition of one
3 recommendation to encourage improved countywide monitoring, collection and reporting of recycling rates.
4 She said that the County Board has reviewed and adopted the two previous five-year updates to the
5 *Champaign County Solid Waste Management Plan* in 1996 and 2002 and the resolution presented for the
6 Committee’s consideration incorporates and adopts the third required five-year 2007 Update to the plan.
7

8 **Ms. Melin moved, seconded by Mr. Schroeder to recommend approval of the Resolution Adopting the**
9 **Champaign County Solid Waste Management Plan 5-year Update.**

10
11 **The motion carried by voice vote.**

12
13 **13. Champaign County Land Resource Management Plan Update**

14
15 **Discussion occurred during Agenda Item #4, Public Participation.**

16
17 **14. Update on Enforcement Cases**

18
19 Mr. Hall stated that time has not allowed for the update on enforcement cases to be completed.
20

21 **15. Monthly Report (May, June and July, 2007)**

22
23 Mr. Hall stated that time has also not allowed for the May, June and July, 2007, Monthly Reports to be
24 completed. He said that our office is being relocated to a different location in the building and it is difficult
25 to complete these reports during this relocation. He said that the Planning and Zoning Office is anticipated
26 to be moved next Thursday to its new location.
27

28 **16. Other Business**

29
30 **There was no new business to discuss.**

31
32 **17. Determination of Items to be placed on the County Board Consent Agenda**

33
34 **The consensus of the Committee was to place Item #12 on the County Board Consent Agenda**

35
36 **18. Adjournment**

37
38 **Mr. Doenitz moved, seconded by Mr. Jones to adjourn the August 13, 2007, ELUC meeting. The**
39 **motion carried by voice vote.**

40
41 **The meeting was adjourned at 9:03 p.m.**
42

8/13/07

DRAFT SUBJECT TO APPROVAL DRAFT

ELUC

1
2
3

Respectfully submitted,

Secretary to the Environment and Land Use Committee

eluc\minutes\minutes.fm

From: Frederick Stavins [mailto:Frederick.Stavins@ci.champaign.il.us]
Sent: Monday, August 20, 2007 12:37 PM
To: Susan McGrath
Cc: Trisha Crowley
Subject: lawsuit-armstrong IAWC annexation agreement

Susan, below is what I was calling about

Below is a copy of the press release sent out this am by the attorneys representing Roger Armstrong. This was supplied to me by a member of the news media.

PRESS RELEASE AND MEDIA ADVISORY

Contact: Roger Armstrong, (217) 390-4063
Jason Barickman, (217) 352-5900

CHAMPAIGN SUED OVER WATER COMPANY ANNEXATION AGREEMENT *Property owners claim City lacks legal authority and has conducted spot zoning*

Champaign, Illinois (August 20, 2007) - Property owners will file suit against the City of Champaign on Monday afternoon, claiming the City has acted beyond their legal authority and has engaged in illegal spot zoning. The Plaintiffs, Roger Armstrong, a resident of unincorporated Champaign County, and Tom Fiedler, a City of Champaign resident, are challenging the legality of the recent annexation agreement between the City of Champaign and the Illinois American Water Company.

Illinois American Water originally purchased a 40-acre parcel of land located on the north side of Bradley Avenue approximately a quarter mile west of its intersection with Barker Road. The property is in unincorporated Champaign, approximately one mile from Bondville and outside the City of Champaign's mile-and-one-half extra-territorial jurisdiction. Although the property was not properly zoned for the Water Company's proposed processing plant, the Water Company successfully negotiated an annexation agreement with the City of Champaign in July. The twenty-year agreement between the two parties allows the City to annex the property if it ever becomes contiguous with the City, but also contains a controversial provision to immediately amend the zoning designation from Agriculture to Light Industrial.

Numerous property owners held neighborhood meetings and hired the Champaign law firm of Bartell & Barickman, LLP, to represent their interests. Since the City's agreement with the Water Company, attorney Jason Barickman has met with and spoken to numerous Champaign County officials who have encouraged the property owners to file suit to determine whether the City was acting beyond its authority. The property owners have asked the County to join the lawsuit, and are anticipating formal County action in the coming weeks, once the County Board has had an opportunity to evaluate the situation.

Under a controversial 2005 Illinois Supreme Court case, Village of Chatham vs. Sangamon County, municipalities may enter into annexation agreements even if the areas are not physically connected, or "contiguous", to the city, thereby immediately subjecting the property to the municipality's zoning and building codes. Barickman's complaint alleges that even though the City may enter such agreements with non-contiguous properties, the municipalities are still limited to their mile-and-one-half extraterritorial jurisdictions. Further, even if Chatham ruling allows the City of Champaign to enter the annexation agreement with the Water Company, the effect of the zoning change was illegal spot zoning. Under Illinois law, spot zoning is illegal if it only serves the interest and purposes of the owner of the land or if the change is not in harmony with the surrounding existing uses.

From: Pius Weibel
Sent: Wednesday, August 22, 2007 11:19 AM
To: Frederick.Stavins@ci.champaign.il.us; Trisha.Crowley@ci.champaign.il.us
Cc: Barb Wysocki; Jonathan Schroeder; Susan McGrath; Julia Rietz; John Hall; Greg Knott; Thomas Betz; jbarickman@jbar2.com
Subject: Lawsuit: Armstrong IAWC annexation agreement

Fred and Tricia,

I would like to comment on several statements that were included in the August 20, 2007 press release of Mr. Jason Barickman and Mr. Roger Armstrong regarding their lawsuit against the City of Champaign concerning the Illinois-American pre-annexation agreement.

On Wednesday, August 1, 2007 I had a meeting with Mr. Barickman, Mr. Armstrong, Susan McGrath (SA office) and Mr. John Hall (County Planning and Zoning Department) in my office at Brookens. At that time, Mr. Barickman and Mr. Armstrong stated that they were considering filing a law suit against the City of Champaign over the Illinois-American pre-annexation agreement. They inquired about whether the County would be interested in joining them in some capacity. I asked Mr. Hall to include an item on the next Environment and Land Use Committee agenda, with the consent of the Committee Chair (Ms. Barb Wysocki), so that it could be discussed at the meeting. In addition, this would allow Ms. McGrath to gather and study pertinent documents on this case and the Chatham case.

The agenda item for the August 13, 2007 ELUC meeting was:

"City of Champaign annexation agreement with Illinois American Water Company for a proposed water treatment plant in Section 1 of Scott Township and potential role of Champaign County in litigation involving annexation agreement."

The only action that took place on this item was to defer it to the September 10, 2007 Environment and Land Use Committee meeting. Much discussion about this item occurred at the ELUC meeting. However, neither the Environment and Land Use Committee, myself, nor any other Champaign County official, to the best of my knowledge, encouraged Mr. Barickman or Mr. Armstrong to file a law suit. One or more Board members at the Environment and Land Use Committee meeting did state that the County Board should/would not initiate such a law suit. It is possible that Mr. Barickman may have felt encouraged to file the law suit because County Board members did not specifically discourage the filing of a law suit. The Environment and Land Use Committee deferred action for a number of reasons: lack of documentation, lack of certainty of the filing of a law suit by Mr. Barickman, and uncertainty of where the County should be involved in this legal proceeding. I do not recall any Board member stating that the County should be involved with the case or that the County should not be involved. The Environment and Land Use Committee, and then the full County Board, will need to study this issue much more thoroughly before they decide what the County's role in this lawsuit should be, if any. The Committee has requested that Ms. McGrath provide them with a review of the lawsuit, and the Chatham case, as part of their review of this matter. The item should be on the agenda at the next ELUC meeting. At this time it is very difficult to anticipate what "formal County action" will take place at that meeting, or at future Board meetings on this issue.

Pius

C. Pius Weibel

Champaign County Board Chair



Champaign County Farm Bureau

801 N. Country Fair Drive ♦ Suite A ♦ P.O. Box 3098 ♦ Champaign, IL 61826-3098
Phone: (217) 352-5235 ♦ Fax: (217) 352-8768

Bradley Uken, Manager

www.ccfarmbureau.com

August 23, 2007

Carl Pius Weibel
709 W. Green St.
Champaign, IL 61820

Dear Carl Pius,

The Champaign County Farm Bureau has long been interested in the ramifications of the Illinois Supreme Court ruling on the Village of Chatham vs. Sangamon County. This case has been one of the subjects of discussion at the last two of our yearly Land Use Seminars.

We applaud the work of Frank DiNovo and John Hall in their attention to this issue, as well as the County Board's adoption of Resolution No. 5942 concerning House Bill 3597. Champaign County has been unable to be listed as one of the counties covered by this bill, which still awaits the Governor's signature. While addressing some of the issues of the Chatham case, H.B. 3597 is still incomplete. We urge Champaign County to strive for a complete and satisfactory state legislative remedy to the issues raised by the Chatham ruling as this would be the logical place for a long-term solution.

It is also our understanding that the County Board may consider a resolution calling for a county-wide intergovernmental agreement, regarding development involving municipal annexation agreements. It is also our understanding that the Regional Planning Commission (RPC) may convene a meeting of Champaign County's municipalities and villages to discuss the current situation in the hopes of arriving at a local solution. This type of action is necessary due to the incomplete action of the state legislature to find a long-term solution. We encourage the county to work cooperatively with all parties to find a local answer to this problem.

Additionally, we encourage the County to adopt the historical perspective granted by the Illinois Compiled Statutes Counties Code which states that counties have zoning authority not only in the areas outside the 1.5 mile Extra Territorial Jurisdiction (ETJ), but in fact have zoning authority within the 1.5 mile area up to municipal corporate boundaries. We believe that citizen's interests are best served by this ability on the County's part. The 1.5 mile municipal and village ETJ of zoned municipalities in Champaign County currently encompasses 36.2% of the County's land area. (See

Where Membership Means Value

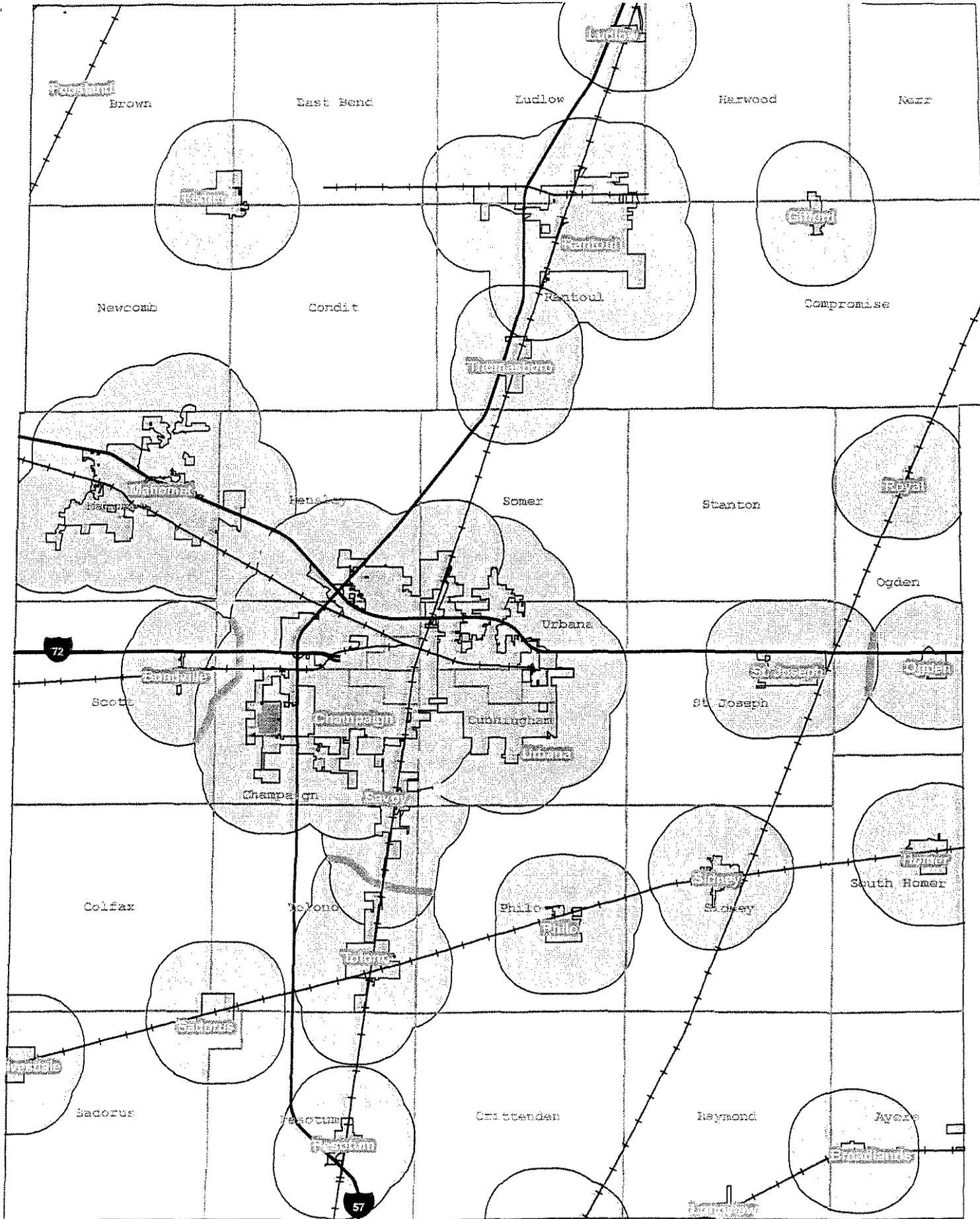
attached map) The County, with a consistent set of regulations, uniformly applied, is the best governmental body to oversee zoning and other issues in unincorporated areas. Additionally, without County authority, those living within these rural areas have no political representation concerning zoning issues. They in effect have no vote and no voice.

I have attached several newspaper articles which attest to some of the disturbing consequences of the current land use authority situation. We hope that the Champaign County Board will be an active participant both in Springfield, and locally, in finding a solution.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Bidner', written in a cursive style.

Scott Bidner, President
Champaign County Farm Bureau



DISCLAIMER
 This map was prepared by the Champaign County GIS Consortium (CCGIS) using the best available data. This map and its underlying data is intended to be used as a general index to land related information and is not intended for detailed, site-specific analysis. CCGIS does not warrant or guarantee the accuracy of this information for any purpose.
 For questions regarding availability of geo-data or the CCGIS, or to report a mapping error, please contact CCGIS at: 217-228-3313



Map Produced 8/22/07 by
 Champaign County GIS Consortium
 A Program of the Champaign County Regional Planning Commission

Champaign County Civil Jurisdictions



- Legend**
- Intergovernmental Boundary Agreements
 - Statutory Subdivision Jurisdiction Boundary
 - Civil Townships
 - Municipal Boundaries
 - Extraterritorial Jurisdiction (with subdivision jurisdiction)
 - Extraterritorial Jurisdiction (without subdivision jurisdiction)

Rockford Register Star rrstar.com

 Print This Page

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Published: March 1, 2007

Local News: Cherry Valley

Stillman Valley next in developer's search The proposal has caused concern in Cherry Valley and Belvidere.

By Bridget Tharp

ROCKFORD REGISTER STAR

[Click here for more information about Bridget Tharp](#)

STILLMAN VALLEY — Neither Belvidere nor Cherry Valley has opened doors for developer Gary Erb to build the 1,800-home subdivision he's proposed in Boone County. But he's prepared to keep knocking, even if that means traveling 20 miles or more somewhere else.

Wednesday he approached Stillman Valley to annex the project — a town 20 miles and a county away from the project. The Ogle County village called a special meeting to accommodate Erb, who told its board that he's already talked to 16 other municipalities about the project.

"We'll go anywhere," Erb's attorney Dave McArdle told the board. "We'll go to southern Illinois if we have to."

Related Content

- [Cherry Valley, Belvidere resurrect talks about borders \(2/23/07\)](#)
- [Sod farm could sprout 1,800 homes \(2/4/07\)](#)
- [Zone board rejects subdivision plan \(2/1/07\)](#)

Legally, it appears it's possible for any Illinois municipality to annex the 1,300-acre project. A 2005 state Supreme Court decision, Village of Chatham v. County of Sangamon, made it easier for municipalities to annex land outside of — even far away from — city limits.

STORYCHAT

[Post a Comment](#)

This article does not have any comments associated with it.

This week state Rep. Robert Pritchard, R-Hinckley, introduced House Bill 3597, which would stop municipalities from annexing property disconnected from city limits. Under Pritchard's rules, counties would have to request to be covered by such rules.

Pritchard's bill is in committee and won't likely move forward quickly enough to affect the situation in Stillman Valley.

"I could see that (court decision) was setting the stage for one community reaching well beyond that county," Pritchard said. "That's not good because someone should control the land in their (own) backyard."

Cherry Valley concern

One Cherry Valley resident showed up to ask the Stillman Valley board to communicate with officials in his village before deciding the issue.

"If it were someone else coming out and making a stake in your ground, you'd want to have a say in it, too," said Scott Kramer.

The Stillman Valley board voted to consider the annexation, on the condition that Erb put \$20,000 into an escrow fund to cover attorney and engineering costs. As part of the deal, Erb will indemnify the village should a lawsuit come out of this, Stillman Valley attorney Doug Henry said.

Erb is turning to the Ogle County community after Belvidere and Cherry Valley snubbed the massive housing project, which could house about 6,000 people in the area south of Interstate 90 between Cherry Valley and Irene roads.

The subdivision — which Erb said he'd call Stillman Meadows — would include about 300 acres of green

TOLONO VILLAGE BOARD

Review of policy on annexation deals urged

By **CHRISTINE WALSH**
County Star Editor

TOLONO — The head of the Tolono Plan Commission wants the village board to reconsider its policy for negotiating pre-annexation agreements.

In the past, Tolono has only required pre-annexation agreements of property owners requesting to subdivide property within the village's 1.5-mile extraterritorial jurisdiction.

But plan commission Chairman **Bill Norton** on Tuesday told the board that in 2005, the Illinois Supreme Court decided in the case of **Chatham vs. Sangamon County** that municipalities are allowed to enter into pre-annexation agreements virtually wherever they want.

"If you really wanted to get aggressive, maybe you'd write more of them (pre-annexation agreements)," Norton said.

One drawback to that kind of approach, he said, would be that the village would have zoning and building code jurisdiction.

Consequently, he added, the village's building inspector would have to learn the requirements for parcels without any public utilities and might have to enforce Illinois Environmental Protection Agency or Illinois Department of Public Health requirements.

Norton noted that Savoy's continued expansion to the south means that its extraterritorial jurisdiction is getting closer to Tolono. He suggested that the

village might require a pre-annexation agreement if a parcel is contiguous to the village or if it is in a "critical area" north of the village.

"Where there's overlap, (the Champaign County Department of Planning and Zoning) is going to pick the shorter distance," he said. "Savoy is going to be closer than we are if we don't start being aggressive." Norton recommended Tolono officials require agreements with properties along "gateway" roads like county roads 1000 N (Monticello Road), 1200 E (First Street extended) and 900 E (Duncan Road).

The board unanimously agreed to allow petitioner **Renee Lo** to subdivide a farm she owns east of Tolono on County Road 700 N without requiring a pre-annexation agreement.

In other business, the board heard from **Mike Golish**, who ran for village board in the April election and fell just eight votes short of being elected. Golish, who is division chief and senior research architect at the Construction Engineering Research Laboratory in Champaign, offered to help the board with any of the issues he campaigned on, including community planning, economic development and reducing railroad noise.

The board asked Golish to review Tolono's tax increment finance guidelines and prepare a presentation for a future meeting.

In an unrelated matter, trustees voted to put \$925 per month toward paying off a debt of over \$300,000 to the Illinois Municipal Retirement Fund. The money will come from what the village is receiving by leasing a 40-by-45-foot area at 504 S. Bourne St. to U.S. Cellular for a wireless communication tower.

Handwritten signature or initials

**EAST CENTRAL ILLINOIS
REGIONAL WATER SUPPLY PLANNING COMMITTEE**
P.O. Box 7318, Champaign, Illinois 61826-7318

TO: Companies, Organizations and Other Interested in Water Supply Planning
FROM: Regional Water Supply Planning Committee
SUBJECT: Update Meeting and Water Supply Planning Presentation
DATE: September 20, 2007 (10 am to 3:30 pm)

Committee

Shannon Allen
Soil and Water

Morris Bell
Water Authorities

Dwain Berggren
Environmental

Robert Betzelberger
Small Business

Thomas Davis
Electric Generating

Frank Dunmire
Rural Water District

Evelyn Neavear
Counties

Brent O'Neill
Chairman
Water Utilities

Mark Sheppard
Industries

Jeff Smith
Agriculture

William Smith
Municipalities

Bradley Uken
Vice Chair
Public

The East Central Illinois Regional Water Supply Planning Committee (RWSPC) would like to invite those interested in Water Supply Planning to join the committee and the Mahomet Aquifer Consortium for a meeting on September 20, 2007 at the Park Inn, Urbana, Illinois.

During the meeting, the RWSPC will provide an update on the activities of the committee since its formation in March. In addition, Wittman Hydro Planning will provide an update on the status of the Water Demand Study for the 15 County Region that overlies the Mahomet Aquifer. The region of the study includes all of the following counties.

WEST	CENTRAL	EAST
Mason, Tazewell	McLean, Macon	Champaign, Ford,
Logan, Menard,	Dewitt, Piatt,	Vermilion, Iroquois
Cass, Sangamon	Woodford	

The Key Note speaker for the September meeting is Bill Mullican, Deputy Executive Administrator, Texas Water Development Board. Mr. Mullican began working at the Texas Water Development Board in 1997, serving as Director for Water Resources Planning with the primary responsibilities for implementing Regional and State Water Planning as mandated by Texas Senate Bill 1. On September 20, Mr. Mullican will speak about the Texas Water Development Board's Water Plan efforts and provide insight on the how the planning effort has developed over time. Mr. Mullican will also provide information on the implementation of the water plan during the RWSPCs monthly meeting that will be held following a served lunch.

The September 20 meeting will also be an opportunity to meet the RWSPC members and make contact with the committee member that represents on of the following interest groups.

Agriculture	Water Utilities	Rural Water Districts
Small Business	Municipalities	Industries
Public	Counties	Soil and Water Conservation
Water Authorities	Environment	Electric Generating Utilities

If you have any questions please call or email Brent O'Neill at 217-373-3255 or brent.oneill@amwater.com. Information regarding the Mahomet Aquifer Consortium and the Regional Water Supply Planning Committee is available at www.MahometAquiferConsortium.org.

From: Linfa Ehmen [<mailto:lindaehmen@yahoo.com>]

>Sent: Wednesday, September 05, 2007 12:33 PM

>To: County Board

>Subject: Decreasing Farmland

>

>

>

>To Whom It May Concern;

>

>I am writing to you because I am concerned about the amount of farmland

>being taken out of production just so developors can build hundreds of homes and everything else on it.

>

>It seems like the cities can just take and take, and there is no way to

>stop it. Doesn't anyone realize how much land has already been taken? It

>is alarming. And yet, nothing stops it. My question is: Where is the county board on this issue? It seems there is never any response from them. Where does it say the cities can just run over people and take whatever they want with a total disregard for the land and/or the environment?

>

>There ought to be a policy in place that makes the cities have to come to the county board and landowners before they take people's land and livelihoods away from them. I like to see the wide open spaces out in the county, but I am afraid that pretty soon there won't be any. Isn't there anything that you can do about it to prevent any more land from taken? I would give you my opinion of what I think it is, but I am afraid it might get me in trouble.

>

>What I will say is this, it's a simple proposal. Why not pass legislation in the county that makes it law that in order to develop land, the county board must agree to it as well. This could be a three-fifths majority needed before the project can go forward. Also, why not make it so developors have to pay for all of the costs. This would also include water lines and sewer lines and etc. Maybe if they had to pay all of the costs themselves, they wouldn't be so eager to build things on it.

>

>I am just concerned about the fact that cities can just grow and grow, and farmland just keeps dissappearing without any one defending the land. It just sickens me to see that happening. If you wish to contact me, you may do so by email at lindaehmen@yahoo.com. You can also contact

>me by phone at: 694-4503, or by mail at: Linda Ehmen 2152 CRD 2000 E St.

>Joseph, IL 61873

>

>Please take this into consideration. Someone has to speak up for the farmland. It cannot speak up for itself. Please respond as soon as possible, it would be greatly appreciated. Have a nice day, and continued success at everything.

>

>Sincerely

>

>lindaehmen@yahoo.com

>

>

>

>

>

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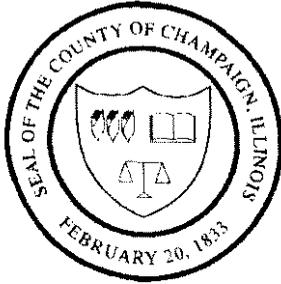
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http://club.live.com/seekadoo.aspx?icid=seek_hotmailtextlink1



STATE OF ILLINOIS
COUNTY OF CHAMPAIGN

ENTERTAINMENT, RECREATION,
LODGING OF TRANSIENTS, AND RACEWAYS LICENSE

No. 2007-014
\$20.00

EGYPTIAN COLLECTORS ASSOCIATION. INC.

License is hereby granted to Bob Leckrone to operate a Hunting and Trade Show at the Champaign County Fair Grounds 903 N. Coler, Urbana IL in Champaign County on September 29th and 30th, 2007. This License expires the 1st day of October at 12:01am.

Witness my Hand and Seal this 11th day of September, A.D. 2007.

MARK SHELDEN
County Clerk
Champaign County

Chairman, Champaign County License Commission



STATE OF ILLINOIS,
Champaign County
Application for:
Recreation & Entertainment License

Applications for License under County Ordinance No. 55 Regulating Recreational & Other Businesses within the County (for use by businesses covered by this Ordinance other than Massage Parlors and similar enterprises)

FILED

AUG 20 2007

Filing Fees: Mark Shelden Per Year (or fraction thereof): \$ 100.00
 CHAMPAIGN COUNTY CLERK Per Single-day Event: \$ 10.00
 Clerk's Filing Fee: \$ 4.00

For Office Use Only

License No. 2007-014
 Date(s) of Event(s) 9-29-07 9:30-07
 Business Name: Egyptian Collectors Assoc Inc
 License Fee: \$ 20.00
 Filing Fee: \$ 4.00
 TOTAL FEE: \$ 24.00
 Checker's Signature: MMS

Checks Must Be Made Payable To: Mark Shelden, Champaign County Clerk

The undersigned individual, partnership, or corporation hereby makes application for the issuance of a license to engage a business controlled under County Ordinance No. 55 and makes the following statements under oath:

- A. 1. Name of Business: EGYPTIAN COLLECTORS ASSOC INC.
 2. Location of Business for which application is made: CHAMPAIGN COUNTY FAIRGROUNDS
 3. Business address of Business for which application is made: COUNTY FAIRGROUNDS P.O. BOX 544 URBANA, IL 61803
 4. Zoning Classification of Property: FAIRGROUNDS
 5. Date the Business covered by Ordinance No. 55 began at this location: 9/29 - 9/30/07
 6. Nature of Business normally conducted at this location: EXHIBIT BUILDINGS.
 7. Nature of Activity to be licensed (include all forms of recreation and entertainment to be provided): HUNTING & TRADE SHOW. (FLYER ENCLOSED)
 8. Term for which License is sought (specifically beginning & ending dates): SEPT. 29 & 30, 2007
 (NOTE: All annual licenses expire on December 31st of each year)
 9. Do you own the building or property for which this license is sought? No
 10. If you have a lease or rent the property, state the name and address of the owner and when the lease or rental agreement expires: SEPT 30 2007 @ 12:00 PM
 11. If any licensed activity will occur outdoors attach a Site Plan (with dimensions) to this application showing location of all buildings, outdoor areas to be used for various purposes and parking spaces. See page 3, Item 7.

INCOMPLETE FORMS WILL NOT BE CONSIDERED FOR A LICENSE
AND WILL BE RETURNED TO APPLICANT

3. If this business will be conducted by a person other than the applicant, give the following information about person employed by applicant as manager, agent or locally responsible party of the business in the designated location:

Name: _____ Date of Birth: _____
Place of Birth: _____ Social Security No.: _____
Residence Address: _____
Citizenship: _____ If naturalized, **place** and **date** of naturalization: _____

If, during the license period, a new manager or agent is hired to conduct this business, the applicant **MUST** furnish the County the above information for the new manager or agent within ten (10) days.

Information requested in the following questions must be supplied by the applicant, if an individual, or by all members who share in profits of a partnership, if the applicant is a partnership.

If the applicant is a corporation, all the information required under Section D must be supplied for the corporation and for each officer.

Additional forms containing the questions may be obtained from the County Clerk, if necessary, for attachment to this application form.

3. 1. Name(s) of owner(s) or local manager(s) (include any aliases): _____
Date of Birth: _____ Place of Birth: _____
Social Security Number: _____ Citizenship: _____
If naturalized, state **place** and **date** of naturalization: _____
2. Residential Addresses for the past three (3) years: _____

3. Business, occupation, or employment of applicant for four (4) years preceding date of application for this license: _____

EACH OFFICER MUST COMPLETE SECTION D. OBTAIN ADDITIONAL FORM PAGES IF NEEDED FROM THE COUNTY CLERK AND ATTACH TO THIS APPLICATION WHEN FILED.

Answer **only** if applicant is a Corporation:

1. Name of Corporation exactly as shown in articles of incorporation and as registered:
EGYPTIAN COLLECTORS ASSOC.
2. Date of Incorporation: 1986 State wherein incorporated: IL

3. If foreign Corporation, give name and address of resident agent in Illinois:

Give first date qualified to do business in Illinois: August 1986

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

(Box 138) 212 1/2 E Broadway
Chattanooga, TN 37401

5. Objects of Corporation, as set forth in charter: Buy - Trade + Selling
Display + Collecting

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: Dallie Chatham Title: Secretary Dept.
Date elected or appointed: Aug 1986 Social Security No.: _____
Date of Birth: _____ Place of Birth: Brownstown, TN
Citizenship: United States
If naturalized, place and date of naturalization: N/A

Residential Addresses for past three (3) years:

Rt 2 Box 109 Brownstown, TN 37418 Dallie Chatham

Business, occupation, or employment for four (4) years preceding date of application for this license: City Dicta, Current EGYPTIAN COLLECTORS ASSOC.

Other Occupations - Retired

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

3. If foreign Corporation, give name and address of resident agent in Illinois: N/A

Give first date qualified to do business in Illinois: August 1986

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

217. 1/2 S. Broadway (P.O. Box 138)
Levellton, IL 62811

5. Objects of Corporation, as set forth in charter: DISPLAY-EXHIBIT-Collect.
Buy-Sell-TRADE.

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: Bob Leckrone Title: PRESIDENT
Date elected or appointed: 1986 Social Security No.: _____
Date of Birth: _____ Place of Birth: SALEM, IL
Citizenship: UNITED STATES
If naturalized, place and date of naturalization: N/A

Residential Addresses for past three (3) years: 211 N. Cherry
HEFFMAN, IL.

Business, occupation, or employment for four (4) years preceding date of application for this license: PRESIDENT EGYPTIAN COLLECTORS ASSOC.

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

3. If foreign Corporation, give name and address of resident agent in Illinois: N/A

Give first date qualified to do business in Illinois: Aug 1986

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

212 1/2 E. BROADWAY (P.O. Box 138)
CENTRALIA, IL 62801

5. Objects of Corporation, as set forth in charter: _____

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: BOB TERRY Title: VICE-PRESIDENT
Date elected or appointed: Jan. 1995 Social Security No. _____
Date of Birth: _____ Place of Birth: PADUCAH, KENTUCKY
Citizenship: UNITED STATES
If naturalized, place and date of naturalization: N/A

Residential Addresses for past three (3) years: 150 MILLER DRIVE,
PADUCAH, KENTUCKY, 42003

Business, occupation, or employment for four (4) years preceding date of application for this license: VICE PRESIDENT EGYPTIAN COLLECTORS ASSOC.

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

AFFIDAVIT

(Complete when applicant is an **Individual or Partnership**)

I/We swear that I/we have read the application and that all matters stated thereunder are true and correct, are made upon my/our personal knowledge and information and are made for the purpose of inducing the County of Champaign to issue the permit hereunder applied for.

I/We further swear that I/we will not violate any of the laws of the United States of America or of the State of Illinois or the Ordinances of the County of Champaign in the conduct of the business hereunder applied for.

Signature of Owner or of one of two members of Partnership

Signature of Owner or of one of two members of Partnership

Signature of Manager or Agent

Subscribed and sworn to before me this _____ day of _____, 20__

Notary Public

AFFIDAVIT

(Complete when applicant is a **Corporation**)

We, the undersigned, president and secretary of the above named corporation, each first being duly sworn, say that each of us has read the foregoing application and that the matters stated therein are true and correct and are made upon our personal knowledge and information, and are made for the purpose of inducing the County of Champaign to issue the license herein applied for.

We further swear that the applicant will not violate any of the laws of the United States of America or of the State of Illinois or the Ordinances of the County of Champaign in the conduct of applicant's place of business.

We further swear that we are the duly constituted and elected officers of said applicant and as such are authorized and empowered to execute their application for and on behalf of said application.

Babe Leckrone

Signature of President
618 492572

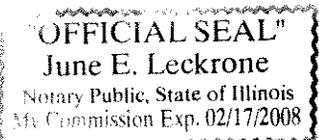
Dallas Chatham

Signature of Secretary

[Signature]

Signature of Manager or Agent

Subscribed and sworn to before me this 16 day of August, 2007



June E. Leckrone

Notary Public

This **COMPLETED** application along with the made payable to MARK SHELDEN, CHAMPAIGN County Clerk's Office, 1776 E. Washinton St., Urbana

ate amount of cash, or certified check CLERK, must be turned in to the Champaign is 61802. A \$4.00 Filing Fee should be included.



STATE OF ILLINOIS,
Champaign County
Liquor Commission
Liquor License Checklist and Approval Sheet

FOR ELUC USE ONLY

County Clerk's Office

- 1. Proper application completed Date Received: 8-20-07
- 2. Fee Amount Received: 24.00

Sheriff's Department

- 1. Police Record Approval: 8-28-07
- 2. Credit Check Disapproval: _____
- Signature: CAPT. Jim Doope

Remarks: _____

Planning & Zoning Department

- 1. Proper Zoning Approval: ✓ 9/6/07
- 2. Restrictions or Violations Disapproval: _____
- Signature: [Signature]

Remarks: _____

Environment & Land Use Committee

- 1. All Requirements Met Approval: _____
- 2. License Available Disapproval: _____
- 3. Approved 4. Denied Signature: _____

Remarks: _____

JAMES B. WHAM
RICHARD A. CARY
JENNIFER W. PRICE
DANIEL R. PRICE

WHAM & WHAM
LAWYERS
212 E. BROADWAY
P.O. BOX 549
CENTRALIA, ILLINOIS 62801
(618) 532-5621
FAX (618) 532-5055
whamlawyers@aol.com

JANIE F. SMITH
OF COUNSEL
WILLIAM B. WHAM
RETIRED

WILLIAM F. BUNDY
1858-1916
CHARLES WHAM
1887-1963
JOHN P. WHAM
1902-1992

—
PARTNERS

TELECOPIER COVER SHEET

DATE: August 30, 2007

TOTAL PAGES (INCLUDING COVER SHEET): 4

TO: Nora

FAX NO: 217-384-1241

FROM: Richard A. Cary

RE: Egyptian Collectors Association, Inc.

IF THERE IS A PROBLEM DURING TRANSMISSION OR YOU WISH TO SPEAK WITH THE FACSIMILE OPERATOR, PLEASE CALL 618/532-5621 AND ASK FOR PAT.

- | | |
|--|--|
| <input checked="" type="checkbox"/> For your information | <input type="checkbox"/> Please telephone upon receipt |
| <input type="checkbox"/> For your files | <input type="checkbox"/> Please read and advise |
| <input type="checkbox"/> As you requested | <input type="checkbox"/> Please acknowledge receipt |
| <input type="checkbox"/> Please sign | <input type="checkbox"/> Please handle |
| <input type="checkbox"/> Please read | <input type="checkbox"/> Please comment |

Original of transmitted document will be sent by:

- | | | |
|---|---|--|
| <input type="checkbox"/> First Class Mail | <input type="checkbox"/> Overnight Mail | <input type="checkbox"/> Hand Delivery |
|---|---|--|

This will be the only form of delivery of the transmitted document.

Additional Comments:

Bob Leckrone requested that we fax you the Articles of Incorporation for Egyptian Collectors, Inc.

If you have any questions, feel free to call 618-532-5621 and ask for Pat or Dick Cary.

CONFIDENTIALITY NOTICE: The information contained in this fax message is privileged and confidential information, intended only for the use of the individual or entity named above. If the reader of this fax message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby on notice that you are in the possession of confidential information. Please immediately notify the sender by telephone of your inadvertent receipt and return the original fax message to the sender at the address listed in the letterhead. The attorney/client privilege is claimed.

File Number 334-253-4



Whereas, ARTICLES OF INCORPORATION OF EGYPTIAN COLLECTORS ASSOCIATION, INC. INCORPORATED UNDER THE LAWS OF THE STATE OF ILLINOIS HAVE BEEN FILED IN THE OFFICE OF THE SECRETARY OF STATE AS PROVIDED BY THE BUSINESS CORPORATION ACT OF ILLINOIS, IN FORCE JULY 1, A.D. 1934.

Now Therefore, I, Jim Edgar, Secretary of State of the State of Illinois, by virtue of the powers vested in me by law, do hereby issue this certificate and attach hereto a copy of the Application of the aforesaid corporation.

In Testimony Whereof, *I hereto set my hand, and cause to be affixed the Great Seal of the State of Illinois,*



at the City of Springfield, this 9TH
day of MAY *AD 19*³⁵ *and*
of the Independence of the United States
the two hundred and 9TH.

Jim Edgar

 SECRETARY OF STATE

File
in
Duplicate

FORM BCA-47
ARTICLES OF INCORPORATION

(Do not write in this space)

Date Paid
Initial License Fee \$
Franchise Tax \$
Filing Fee \$

TO: JIM EDGAR, Secretary of State

Clerk

The name and address of the incorporators are as follows:

Name	Number	Street	City	State	Zip Code
L. Robert Leckrone	P. O. Box 202,		Hoffman,	IL	62250
Ronald R. Snyder	732 Markland		Salem,	IL	62881

The above named incorporators, being one or more natural persons of the age of twenty-one years or more or a corporation, and having subscribed to the shares of the corporation to be organized pursuant hereto, for the purpose of forming a corporation under "The Business Corporation Act" of the State of Illinois, do hereby adopt the following Articles of Incorporation:

ARTICLE ONE

The name of the corporation hereby incorporated is: Egyptian Collectors Association, Inc.

ARTICLE TWO

The name and address of the initial registered agent and registered office are:

Registered agent ~~XXXXXXXXXXXXXXXXXXXX~~ Ronald R. Snyder
 Registered office 301 Lake Street
 City, Zip code, County Salem, IL 62881 Marion County

ARTICLE THREE

The duration of the corporation is ~~is~~ perpetual OR _____ years

ARTICLE FOUR

The purposes for which the corporation is organized are:

The promotion, organization and operation of gun shows involving firearms, knives and other related items and memorabilia, and various shooting events including renting facilities, advertising, contracting space and other acts necessary in furtherance of the aforesaid as permitted by law.

ARTICLE FIVE

Paragraph 1: The class, number of shares, the par value, if any, of each class which the corporation is authorized to issue, the number the corporation proposes to issue without further report to the Secretary of State, and the consideration (expressed in dollars) to be received by the corporation therefor, are:

Class	Series	Par or no par	Number of shares Authorized	Number of shares to be issued	Total consideration to be received therefor
Common		No Par	1,000	300	\$ 1,000.00
					Total \$ 1,000.00

Paragraph 2: The preferences, qualifications, limitations, restrictions and the special or relative rights in respect of the shares of each class are: None

ARTICLE SIX

The corporation will not commence business until at least one thousand dollars has been received as consideration for the issuance of shares.

ARTICLE SEVEN

The number of directors to be elected at the first meeting of the shareholders is 3

ARTICLE EIGHT

Paragraph 1: It is estimated that the value of all property to be owned by the corporation for the following year wherever located will be \$ 1,000.00

Paragraph 2: It is estimated that the value of the property to be located within the State of Illinois during the following year will be \$ 1,000.00

Paragraph 3: It is estimated that the gross amount of business which will be transacted by the corporation during the following year will be \$ _____

Paragraph 4: It is estimated that the gross amount of business which will be transacted at or from places of business in the State of Illinois during the following year will be \$ _____

NOTE: If all the property of the corporation is to be located in this State and all of its business is to be transacted at or from places of business in this State, or if the incorporators elect to pay the initial franchise tax on the basis of its entire stated capital and paid-in surplus, then the information called for in Article Eight need not be stated. The basis for computation of franchise taxes payable by domestic corporations is set forth in Section 132 of the Business Corporation Act.

Signatures of incorporators:
[Handwritten signatures]

NOTE: If a corporation acts as incorporator the name of the corporation and the state of incorporation shall be shown and the execution must be by its President or Vice-President and verified by him, and the corporate seal shall be affixed and attested by its Secretary or an Assistant Secretary.

As an incorporator, I declare that this document has been examined by me and is, to the best of my knowledge and belief, true, correct and complete this 29th day of April, 19 85.

RETURN TO:

Corporation Department
Secretary of State
Springfield, Illinois 62756
Telephone (217) 782-2680

FORM BCA-47

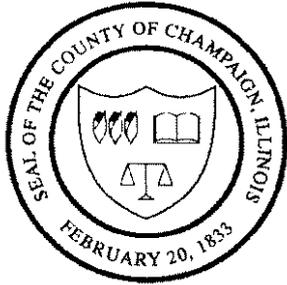
ARTICLES OF INCORPORATION

The following fees are required to be paid at the time of filing Articles of Incorporation: Filing fee \$75.00; State Seal \$5.00; \$100.00 or 1/20th of 1% of the amount of stated capital and paid in surplus the corporation proposes to issue without further report to the State; Initial Franchise Tax of 1/10th of 1% of the stated capital and paid in surplus; the minimum initial fee is \$25.00; January, \$31.50; February, \$35.00; March, \$38.50; April, \$42.00; May, \$45.50; June, \$49.00; July, \$52.50; August, \$56.00; September, \$59.50; October, \$63.00; November, \$66.50; December, \$70.00.

of \$25.00; the franchise tax per \$1,000.00 is as follows: January, \$1.50; February, \$1.67; March, \$1.84; April, \$2.00; May, \$2.17; June, \$2.34; July, \$2.50; August, \$2.67; September, \$2.84; October, \$3.00; November, \$3.17; December, \$3.34.

... fees issued in excess of the amount mentioned in article five of this application must be reported within 60 days from date of issuance thereof and franchise tax and license fee paid thereon; otherwise, the corporation is subject to a penalty of 1% for each month on the amount which reported and subject to a fine of not to exceed \$500.00.

The same fees are required for a subsequent issue of shares except the filing fee is \$5.00 instead of \$75.00.



**STATE OF ILLINOIS
COUNTY OF CHAMPAIGN**

**ENTERTAINMENT, RECREATION,
LODGING OF TRANSIENTS, AND RACEWAYS LICENSE**

**No. 2007-015
\$20.00**

GORDYVILLE LLC

License is hereby granted to Johanna M. Quiram, James J. Hannagan, John G. Hannagan II, Patricia A. Frerichs, Edward F. Hannagan, and Mary E. Hannagan to operate Bull Riding and Dance at the 2205 CR 3000N, Gifford, Illinois in Champaign County on October 19th and 20th, 2007. This License expires the 21st day of October at 12:01a.m.

Witness my Hand and Seal this 11th day of September, A.D. 2007.

MARK SHELDEN
County Clerk
Champaign County

Chairman, Champaign County License Commission



STATE OF ILLINOIS,
Champaign County
Application for:
Recreation & Entertainment License

FILED
AUG 28 2007

Mark Shelden
CHAMPAIGN COUNTY CLERK

Applications for License under County Ordinance No. 55 Regulating Recreational & Other Businesses within the County (for use by businesses covered by this Ordinance other than Massage Parlors and similar enterprises)

For Office Use Only

License No. 2007-15
Date(s) of Event(s) 10-19-20, 2007
Business Name: Codyville LLC
License Fee: \$ 20.00
Filing Fee: \$ 4.00
TOTAL FEE: \$ 24.00
Checker's Signature: Mr.

Filing Fees: Per Year (or fraction thereof):
Per Single-day Event:
Clerk's Filing Fee:

\$ 100.00
\$ 10.00 $\times 2 = 20$
\$ 4.00
24

Checks Must Be Made Payable To: Mark Shelden, Champaign County Clerk

The undersigned individual, partnership, or corporation hereby makes application for the issuance of a license to engage a business controlled under County Ordinance No. 55 and makes the following statements under oath:

- A. 1. Name of Business: Codyville LLC
- 2. Location of Business for which application is made: PO Box 490
- 3. Business address of Business for which application is made: 2205 CR 3000 N, GIFFORD, IL Champaign County
2205 CR 3000 N, GIFFORD, IL 61847
- 4. Zoning Classification of Property: BUSINESS
- 5. Date the Business covered by Ordinance No. 55 began at this location: -
- 6. Nature of Business normally conducted at this location: AUCTIONS,
HORSE SHOWS, FEA MARKETS
- 7. Nature of Activity to be licensed (include all forms of recreation and entertainment to be provided): BULL RIDING & DANCE
- 8. Term for which License is sought (specifically beginning & ending dates): OCTOBER 19-20, 2007

(NOTE: All annual licenses expire on December 31st of each year)

- 9. Do you own the building or property for which this license is sought? YES
- 10. If you have a lease or rent the property, state the name and address of the owner and when the lease or rental agreement expires: NA
- 11. If any licensed activity will occur outdoors attach a Site Plan (with dimensions) to this application showing location of all buildings, outdoor areas to be used for various purposes and parking spaces. See page 3, Item 7. NA

INCOMPLETE FORMS WILL NOT BE CONSIDERED FOR A LICENSE AND WILL BE RETURNED TO APPLICANT

Recreation & Entertainment License Application
Page Two

B. If this business will be conducted by a person other than the applicant, give the following information about person employed by applicant as manager, agent or locally responsible party of the business in the designated location: NA

Name: JOHANNA M. GRIGAM Date of Birth: _____
Place of Birth: CHAMPAIGN, IL Social Security No.: _____
Residence Address: 2104 Wiggins St, Champaign, IL 61818
Citizenship: USA - American If naturalized, place and date of naturalization: NA

If, during the license period, a new manager or agent is hired to conduct this business, the applicant MUST furnish the County the above information for the new manager or agent within ten (10) days.

Information requested in the following questions must be supplied by the applicant, if an individual, or by all members who share in profits of a partnership, if the applicant is a partnership.

If the applicant is a corporation, all the information required under Section D must be supplied for the corporation and for each officer.

Additional forms containing the questions may be obtained from the County Clerk, if necessary, for attachment to this application form.

C. ^{NA} 1. Name(s) of owner(s) or local manager(s) (include any aliases): _____
Date of Birth: _____ Place of Birth: _____
Social Security Number: _____ Citizenship: _____
If naturalized, state place and date of naturalization: _____
Residential Addresses for the past three (3) years: _____
2. _____
3. Business, occupation, or employment of applicant for four (4) years preceding date of application for this license: _____

See ATTACHED OWNERS

EACH OFFICER MUST COMPLETE SECTION D. OBTAIN ADDITIONAL FORM PAGES IF NEEDED FROM THE COUNTY CLERK AND ATTACH TO THIS APPLICATION WHEN FILED.

D. Answer only if applicant is a Corporation:
1. Name of Corporation exactly as shown in articles of incorporation and as registered: Gordville LLC
Date of Incorporation: December, 28, 2004 State wherein incorporated: ILLINOIS

used Oct 24 2007 See ABOVE

Recreation & Entertainment License Application
Page Three

3. If foreign Corporation, give name and address of resident agent in Illinois:

NA

Give first date qualified to do business in Illinois: - Dec 24, 04

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

2451 CR 2800N, PENFIELD, IL 61862

5. Objects of Corporation, as set forth in charter: AUCTIONS, HORSE SHOWS, Flea MARKETS, ETC.

6. Names of all Officers of the Corporation and other information as listed:

Name of Officer: JOHANNA M. QUIGAN Title: PART OWNER
Date elected or appointed: _____ Social Security No.: _____
Date of Birth: _____ Place of Birth: Champaign, IL
Citizenship: USA
If naturalized, place and date of naturalization: NA

Residential Addresses for past three (3) years: 2104 Wiggins St.
Champaign IL 61822
2104 Emerald Dr
Champaign IL 61822

Business, occupation, or employment for four (4) years preceding date of application for this license: PARTNER/EMPLOYED BY CANDYCRIS LLC

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

NO OUTDOOR AREA TO BE USED EXCEPT FOR PARKING.
40 ACRES PARKING.
EVENT ALL INDOOR.

Recreation & Entertainment License Application
Page Three

3. If foreign Corporation, give name and address of resident agent in Illinois:

NA

Give first date qualified to do business in Illinois: —

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all ^{OWNERS} Officers of the Corporation and other information as listed:

Name of Officer: JAMES J. HANNAGAN Title: part owner

Date elected or appointed: _____ Social Security No.: _____

Date of Birth: _____ Place of Birth: Champaign IL 1984

Citizenship: USA

If naturalized, place and date of naturalization: NA

Residential Addresses for past three (3) years:

201 E Summit
Champaign, IL 61841

Business, occupation, or employment for four (4) years preceding date of application for this license: Property LLC - Auctioneer - Manager

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

NO OUTDOOR AREA TO BE USED EXCEPT FOR PARKING.
40 ACRES PARKING.
EVENT ALL INDOOR.

Recreation & Entertainment License Application

Page Three

3. If foreign Corporation, give name and address of resident agent in Illinois:

NA

Give first date qualified to do business in Illinois: —

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all ^{OWNERS} Officers of the Corporation and other information as listed:

Name of Officer: JOHN G. HANNAGAN II Title: PART OWNER

Date elected or appointed: _____ Social Security No.: _____

Date of Birth: _____ Place of Birth: Champaign, IL

Citizenship: USA

If naturalized, place and date of naturalization: NA

Residential Addresses for past three (3) years: _____

2444 CR 2700N
BUFFORD, IL 61847

Business, occupation, or employment for four (4) years preceding date of application for this license: SELF EMPLOYED FARMER

Comp. by BONDVILLE LLC

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

NO OUTDOOR AREA TO BE USED EXCEPT FOR PARKING.
40 ACRES PARKING.
EVENT ALL INDOOR.

Recreation & Entertainment License Application
Page Three

3. If foreign Corporation, give name and address of resident agent in Illinois:

NA

Give first date qualified to do business in Illinois: —

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all ^{OWNER} Officers of the Corporation and other information as listed:

Name of Officer: PATRICIA A. FRENCH Title: Part owner

Date elected or appointed: _____ Social Security No.: _____

Date of Birth: _____ Place of Birth: Champaign, IL

Citizenship: USA

If naturalized, place and date of naturalization: NA

Residential Addresses for past three (3) years: _____

2757 CR 2100N
Ogden, IL

Business, occupation, or employment for four (4) years preceding date of application for this license: _____

SELF EMPLOYED - HAUTICIAN
BORNYVILLE LLC

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

NO OUTDOOR AREA TO BE USED EXCEPT FOR PARKING.

40 ACRES PARKING.

EVENT ALL INDOOR.

Recreation & Entertainment License Application
Page Three

3. If foreign Corporation, give name and address of resident agent in Illinois:

NA

Give first date qualified to do business in Illinois: —

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all ^{OWNERS} Officers of the Corporation and other information as listed:

Name of Officer: Edward F. Hannagan Title: Part Owner
Date elected or appointed; _____ Social Security No.: _____
Date of Birth: _____ Place of Birth: Champaign, IL
Citizenship: USA
If naturalized, place and date of naturalization: NA

Residential Addresses for past three (3) years: 209 S. New
Gifford, IL 61847

Business, occupation, or employment for four (4) years preceding date of application for this license: EMPLOYED BY BUNBEE CORP.

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

NO OUTDOOR AREA TO BE USED EXCEPT FOR PARKING.
40 ACRES PARKING.
EVENT ALL INDOOR.

Recreation & Entertainment License Application

Page Three

3. If foreign Corporation, give name and address of resident agent in Illinois:

NA

Give first date qualified to do business in Illinois: —

4. Business address of Corporation in Illinois as stated in Certificate of Incorporation:

5. Objects of Corporation, as set forth in charter: _____

6. Names of all ^{OWNERS} Officers of the Corporation and other information as listed:

Name of Officer: MARY E. HANNAGAN Title: MANAGER - PART OWNER

Date elected or appointed: Dec 24, 04 Social Security No.: _____

Date of Birth: _____ Place of Birth: Champaign IL 61821

Citizenship: USA

If naturalized, place and date of naturalization: NA

Residential Addresses for past three (3) years: 2451 CR 2800N

Perfield IL 61862

Business, occupation, or employment for four (4) years preceding date of application for this license: GRANDVILLE LLC

7. A site plan (with dimensions) must accompany this application. It must show the location of all buildings, outdoor areas to be used for various purposes and parking spaces.

NO OUTDOOR AREA TO BE USED EXCEPT FOR PARKING.

40 ACRES PARKING.

EVENT ALL INDOOR.

Recreation & Entertainment License Application
Page Four

AFFIDAVIT

(Complete when applicant is an Individual or Partnership)

I/We swear that I/we have read the application and that all matters stated thereunder are true and correct, are made upon my/our personal knowledge and information and are made for the purpose of inducing the County of Champaign to issue the permit hereunder applied for.

I/We further swear that I/we will not violate any of the laws of the United States of America or of the State of Illinois or the Ordinances of the County of Champaign in the conduct of the business hereunder applied for.

Mary Hannagan

Signature of Owner or of one of two members of Partnership

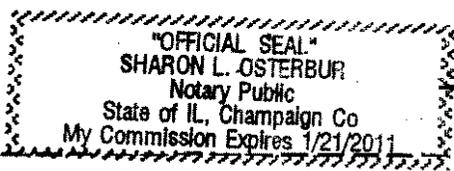
John M. Fisher

Signature of Owner or of one of two members of Partnership

John M. Fisher

Signature of Manager or Agent

Subscribed and sworn to before me this 27th day of August, 2007.



Sharon L. Osterbur

Notary Public

AFFIDAVIT

(Complete when applicant is a Corporation)

We, the undersigned, president and secretary of the above named corporation, each first being duly sworn, say that each of us has read the foregoing application and that the matters stated therein are true and correct and are made upon our personal knowledge and information, and are made for the purpose of inducing the County of Champaign to issue the license herein applied for.

We further swear that the applicant will not violate any of the laws of the United States of America or of the State of Illinois or the Ordinances of the County of Champaign in the conduct of applicant's place of business.

We further swear that we are the duly constituted and elected officers of said applicant and as such are authorized and empowered to execute their application for and on behalf of said application.

Mary Hannagan

Signature of President

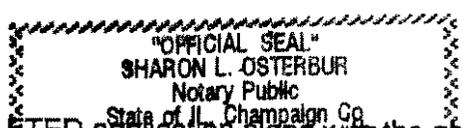
John M. Fisher

Signature of Secretary

n/a

Signature of Manager or Agent

Subscribed and sworn to before me this 27th day of August, 2007.



Sharon L. Osterbur

Notary Public

This COMPLETED application requires the appropriate amount of cash, or certified check made payable to MARK SHELTON, CHAMPAIGN COUNTY CLERK, must be turned in to the Champaign County Clerk's Office, 1776 E. Washington St., L 1015 61802. A \$4.00 Filing Fee should be included.



STATE OF ILLINOIS,
Champaign County
Recreation & Entertainment License
Check List and Approval Sheet

FOR ELUC USE ONLY

County Clerk's Office

- 1. Proper Application Date Received: 8-28-07
- 2. Fee Amount Received: 24.00

Sheriff's Department

- 1. Police Record Approval: _____ Date: 9/4/07
- 2. Credit Check Disapproval: _____ Date: _____

Remarks: _____ Signature: Capitain Uogor

Planning & Zoning Department

- 1. Proper Zoning Approval: ✓ Date: 9/6/07
- 2. Restrictions or Violations Disapproval: _____ Date: _____

Remarks: B-4 Signature: [Signature]

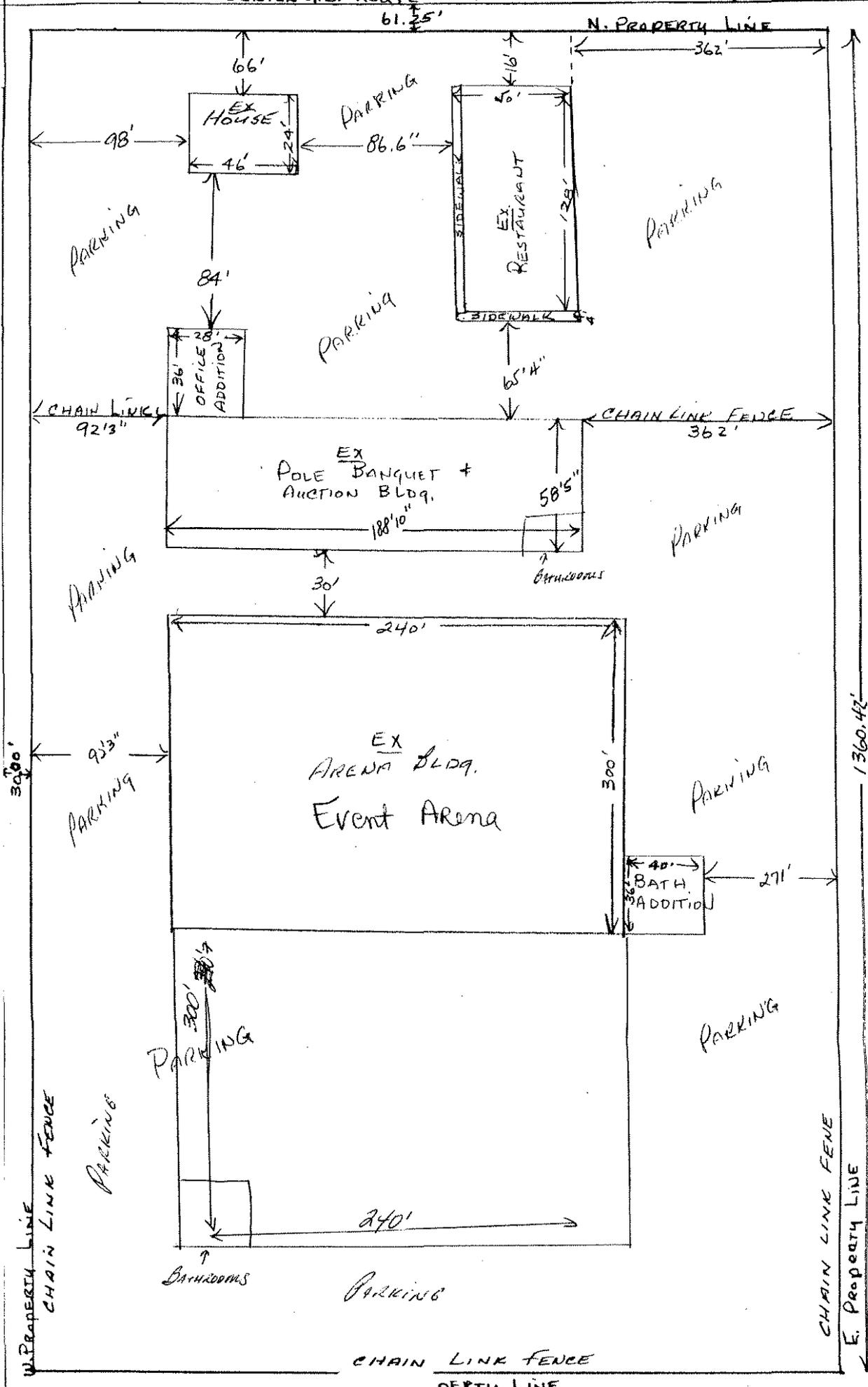
Environment & Land Use Committee

- 1. Application Complete Approval: _____ Date: _____
- 2. Requirements Met Disapproval: _____ Date: _____

Signature: _____

Remarks and/or Conditions: _____

61.25'



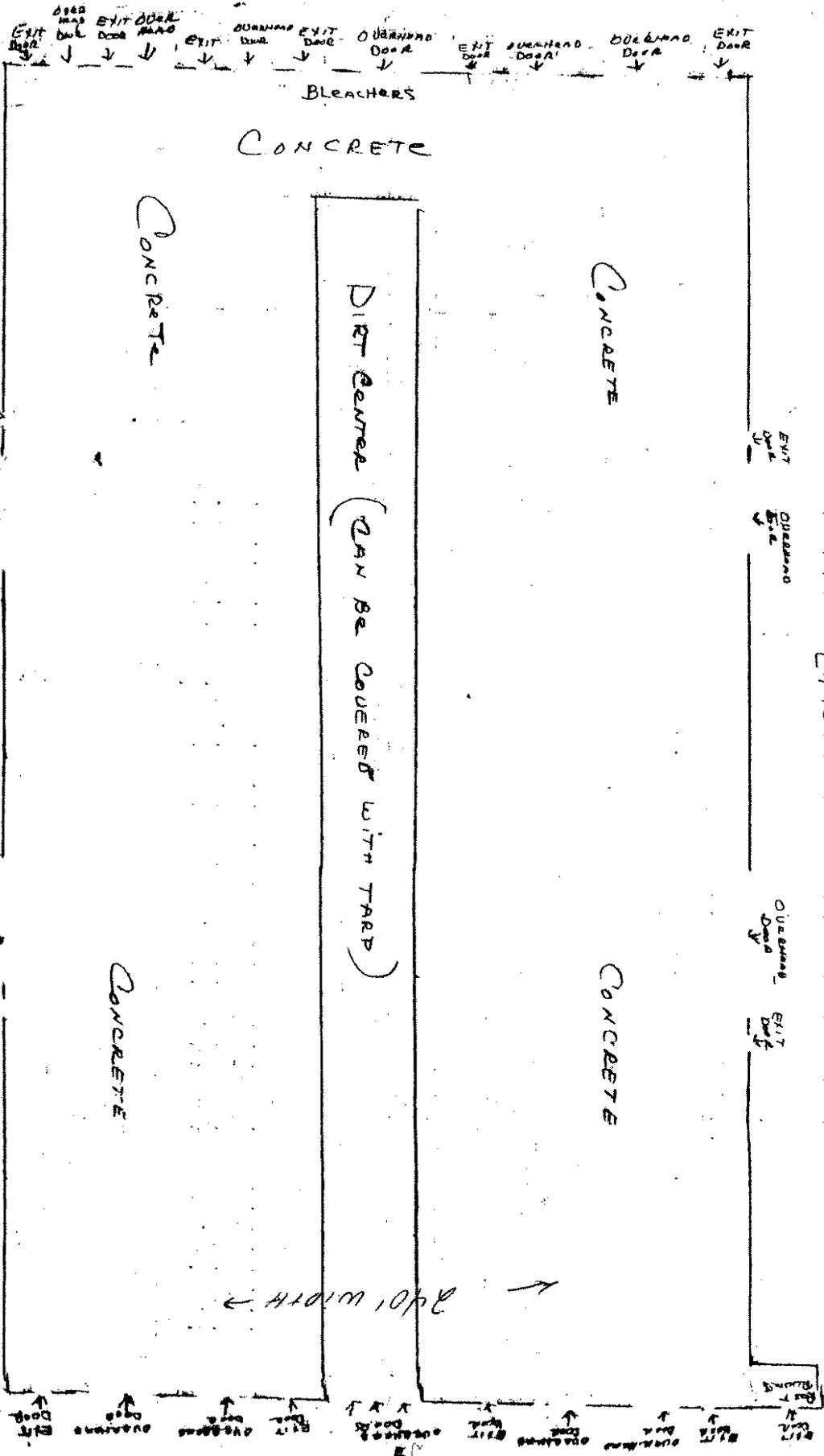
CHAIN LINK FENCE

PROPERTY LINE

42.40'

NORTH

84000 square feet of floor space



← Nest →
 300'

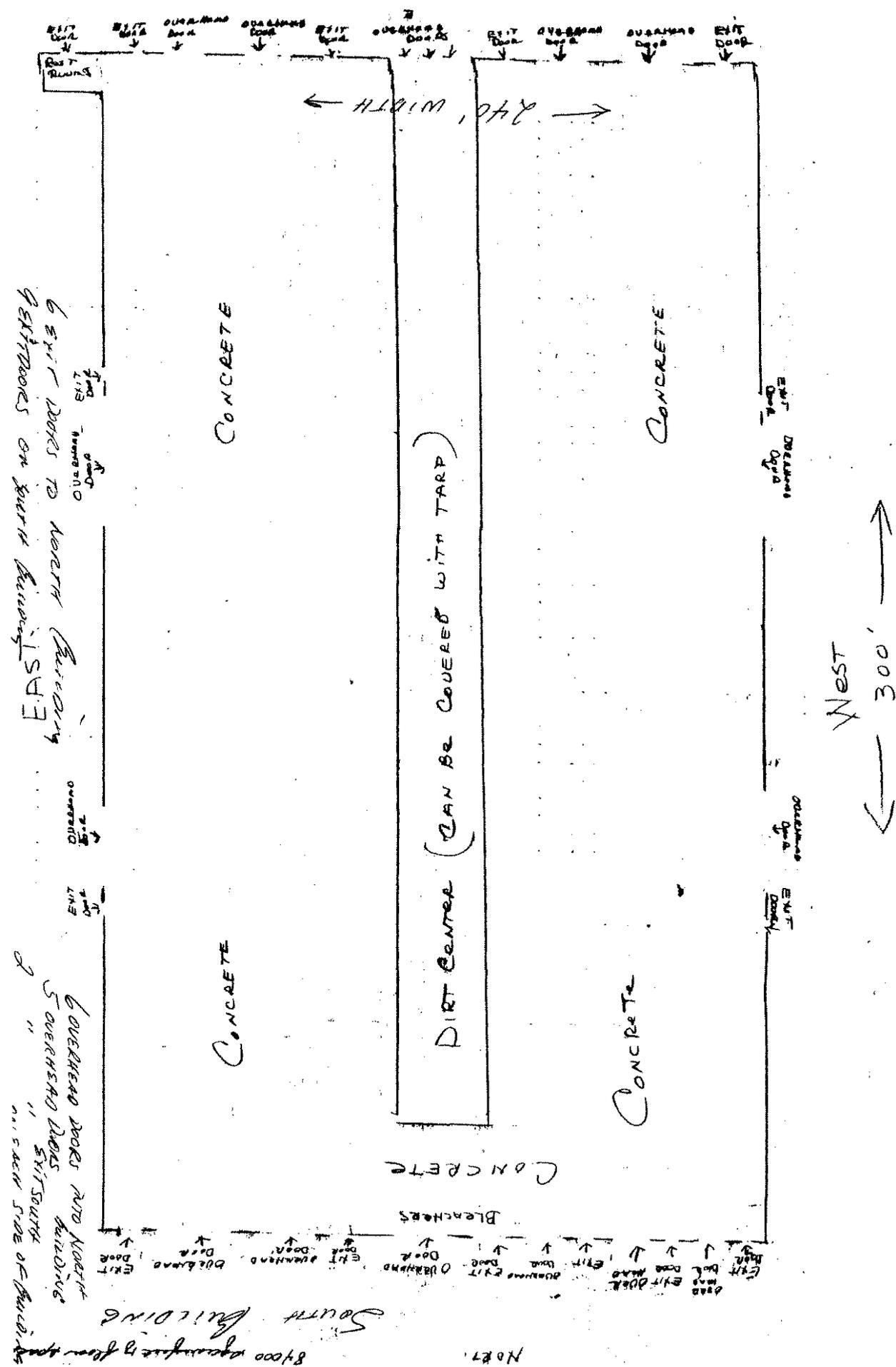
15 EXIT DOORS
 15 OVER HEAD DOORS

← 240' WIDTH →

North Building

South

South
← →



EAST
 6 EXIT DOORS TO NORTH BUILDING
 4 EXIT DOORS ON NORTH BUILDING

WEST
 6 OVERHEAD DOORS AND NORTH OVERHEAD DOORS
 5 EXIT DOORS SOUTH SIDE OF BUILDING

DIRT CENTER (CAN BE COVERED WITH TARP)

CONCRETE

CONCRETE

CONCRETE

CONCRETE

CONCRETE

BLEACHERS

84000
 SOUTH BUILDING

North

Champaign
County
Department of



Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

To: **Environment and Land Use Committee**
From: **John Hall, Zoning Administrator**
Date: **September 6, 2007**
RE: **Text amendment to ensure land use compatibility near pipelines**

(217) 384-3708
FAX (217) 328-2426

STATUS

On March 12, 2007, the Committee directed staff to prepare a Zoning Ordinance text amendment to add regulations to ensure land use compatibility near pipelines. No text amendment has yet been proposed and staff has just begun working on the amendment. At this time the amendment will not be before the Committee before the regularly scheduled meeting on December 10, 2007, meeting.

Zoning Cases 520-AM-05 and 542-AM-06 were also deferred from the March 12 meeting to allow time for the text amendment to be in place.

Champaign
County
Department of

**PLANNING &
ZONING**

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
FAX (217) 328-2426

To: **Environment and Land Use Committee**
From: **John Hall, Zoning Administrator**
Date: **September 6, 2007**
RE: **Case 520-AM-05 Rural Residential Overlay Map Amendment for
proposed five lot RRO**

Zoning Case 520-AM-05

Request: **Amend the Zoning Map to allow for the development of 2 single-family residential lots in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.**

Petitioners: **Gene and Carolyn Bateman**

Location: **Approximately 6.8 acres 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 CR2600N and the west side of CR200N.**

STATUS

This case was before the Committee on March 12, 2007, at which time it was deferred to allow time for a Zoning Ordinance text amendment related to land use compatibility near pipelines. There has not yet been a public hearing on that text amendment.

At this time the amendment will not be before the Committee before the regularly scheduled meeting on December 10, 2007, meeting. This case could be deferred to that date or the Committee could take action based on the ZBA recommendation that was reviewed in the January 9, 2007, memo (see attached).

ATTACHMENT

A ELUC Memorandum of February 7, 2007 (includes all previous ELUC memoranda on this case)

Champaign
County
Department of

**PLANNING &
ZONING**

**Brookens
Administrative Center**
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
FAX (217) 328-2426

To: **Environment and Land Use Committee**
From: **John Hall, Zoning Administrator**
Date: **February 7, 2007**
RE: **Case 520-AM-05 Rural Residential Overlay Map Amendment for
proposed five lot RRO**

Zoning Case 520-AM-05

Request: **Amend the Zoning Map to allow for the development of 2 single-family residential lots in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.**

Petitioners: **Gene and Carolyn Bateman**

Location: **Approximately 6.8 acres 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 CR2600N and the west side of CR200N.**

STATUS

This case was before the Committee at the January 16, 2007, meeting but the motion to approve failed to get a second. The Committee must make a recommendation on this case in order to move it to the County Board. The recommendation can be to recommend approval or to recommend denial or even "no recommendation".

ATTACHMENT

A ELUC Memorandum of January 9, 2007

Champaign
County
Department of

**PLANNING &
ZONING**

Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
FAX (217) 328-2426

To: **Environment and Land Use Committee**
From: **John Hall, Zoning Administrator**
Date: **January 9, 2007**
RE: **Case 520-AM-05 Rural Residential Overlay Map Amendment for
proposed five lot RRO**

Zoning Case 520-AM-05

Request: **Amend the Zoning Map to allow for the development of 2 single-family residential lots in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.**

Petitioners: **Gene and Carolyn Bateman**

Location: **Approximately 6.8 acres 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 CR2600N and the west side of CR200N.**

STATUS

This case was before the Committee at the November 13, 2006, meeting when the Committee remanded this case to the Zoning Board of Appeals (ZBA) in order for the ZBA to consider a revised request. The revised request is for fewer lots (two instead of the previous five lots) and the lots have been reconfigured such that all buildable area is outside of the "potential impact radius" of nearby gas pipelines. The ZBA considered the remanded case at their December 14, 2006, meeting and voted to "RECOMMEND APPROVAL" of the revised Rural Residential Overlay (RRO) rezoning. Relevant maps have been excerpted from the Documents of Record and are attached. The Summary of Evidence is attached and includes relevant testimony from the public hearing.

The ZBA is required to make two specific findings for RRO determinations and those findings are reproduced below in this memorandum and also appear in the Finding of Fact.

Recall that this is the first RRO to be proposed in the vicinity of the underground Manlove Gas Storage Facility in Newcomb and Brown Townships in the northwestern part of the County. See item 17 on pages 14 through 18 of the Summary of Evidence.

No frontage protests been received from neighboring landowners against the proposed rezoning. The subject property is not located within any municipal or village extraterritorial jurisdiction so there can be no municipal or village protest. Newcomb Township has a Plan Commission but the township has provided no communication regarding the proposed map amendment.

REQUIRED FINDINGS

With respect to map amendments requesting creation of a Rural Residential Overlay (RRO) Zoning District, Section 5.4.3 of the Zoning Ordinance requires the ZBA to make two specific findings before forwarding a recommendation to the County Board. The required findings are stated as follows in the Ordinance:

1. That the proposed site is or is not suitable for the development of the specified maximum number of residences; and
2. That the proposed residential development will or will not be compatible with surrounding agriculture.

The Land Use Regulatory Policies that were adopted on November 20, 2001, establish requirements for RROs proposed on "best prime farmland" that the land be "well suited" and that the land be used in the "most efficient way". The proposed RRO is not on best prime farmland so the higher requirements do not apply. The required findings on page 31 of the attached Final Determination have been reproduced below with references to the relevant items in the Summary of Evidence.

Required Finding 1. Regarding Whether the Site is Suitable for the Development of the Specified Maximum Number of Residences:

1. The proposed site **SUBJECT TO CONDITIONS, IS SUITED** for the development of **TWO** residences because:
 - A. **the site has more or less typical Champaign County conditions due to manmade hazards and safety concerns (see items 17. B., C, D, E, F*); and**
 - B. **much better than typical and nearly ideal conditions for the other considerations of adequacy of roads; effects on drainage; septic suitability; LESA score; and flood hazard status, and the availability of water is more or less typical (see items 22, 11, 12, 13, 14, 19, and 21*); and**
 - C. **the property is between 4 and 5 miles from the Cornbelt Fire Protection District (see item 15*); and**and despite:
 - D. **the fact that there are high pressure gas pipelines in the vicinity (see item 17.*); and**
 - E. **the site has much worse than typical Champaign County conditions because it is bordered on one side by livestock management facilities (see item 23.B.(3)*); and**
 - F. **emergency services vehicle access is limited by flooding (see item 12.B.(1)(e)*).**

* refers to items in the Summary of Evidence

NOTE: This is not the actual finding. See the As-Approved Finding of Fact.

Required Finding 2. Whether the Proposed Residential Development Will or Will Not Be Compatible with Surrounding Agriculture:

2. Development of the proposed site under the proposed Rural Residential Overlay development **SUBJECT TO CONDITIONS, WILL BE COMPATIBLE** with surrounding agriculture because:
- A. **surface drainage that is much better than typical** (see item 12.*); **and**
 - B. **the condition to provide an easement for the drainage district tile** (see items 24.B. (1) & (2)*); **and**
 - C. **the adequacy of the roads that is nearly ideal Champaign County conditions** (see item 11*); **and**
 - D. **traffic generated by the proposed RRO District that will be only 100% more than without the RRO** (see item 23.A.(1)*);
- and despite:
- E. **the presence of adjacent livestock management facilities on one side and four other livestock management facilities within a one-mile radius of the property for a total of three active facilities that are by law allowed to expand up to 1,000 animal units** (see item 23. B.(3)*); **and**
 - F. **the presence of a drainage district tile near the proposed RRO District** (see item 12.B.*).

* refers to items in the Summary of Evidence

NOTE: This is not the actual finding. See the As-Approved Finding of Fact.

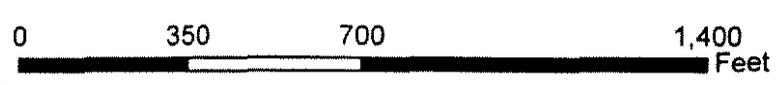
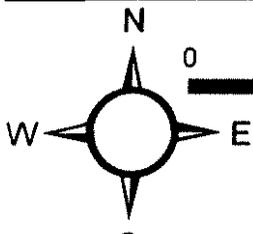
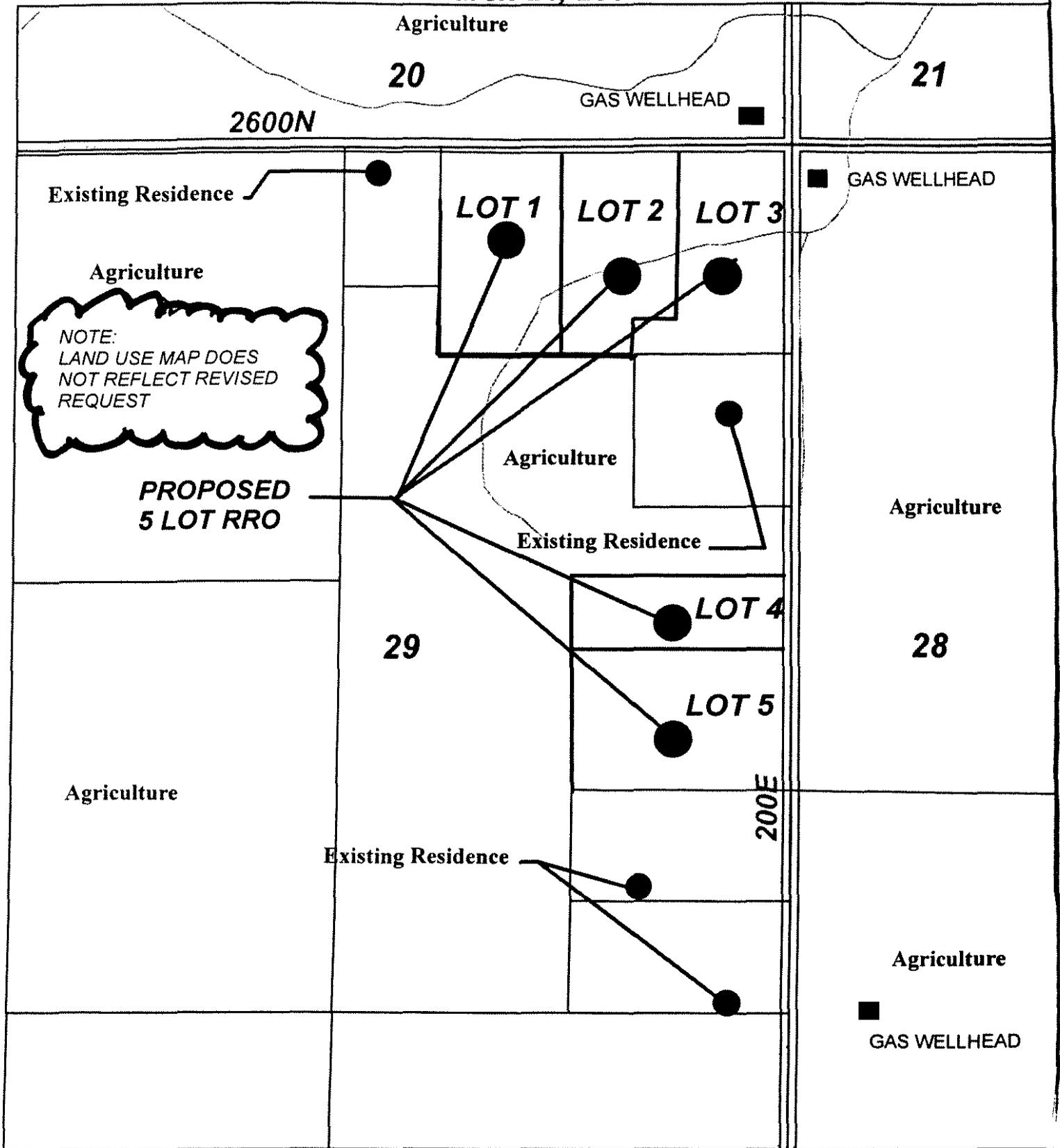
PROPOSED CONDITIONS

The ZBA approved several conditions to address safety concerns related to the high pressure gas pipelines; the presence of a drainage district tile; driveway access for emergency services vehicles; and the fact that the lots are not part of a Plat of Subdivision. The conditions are listed under item 24 of the Summary of Evidence.

ATTACHMENTS (excerpted from the Documents of Record)

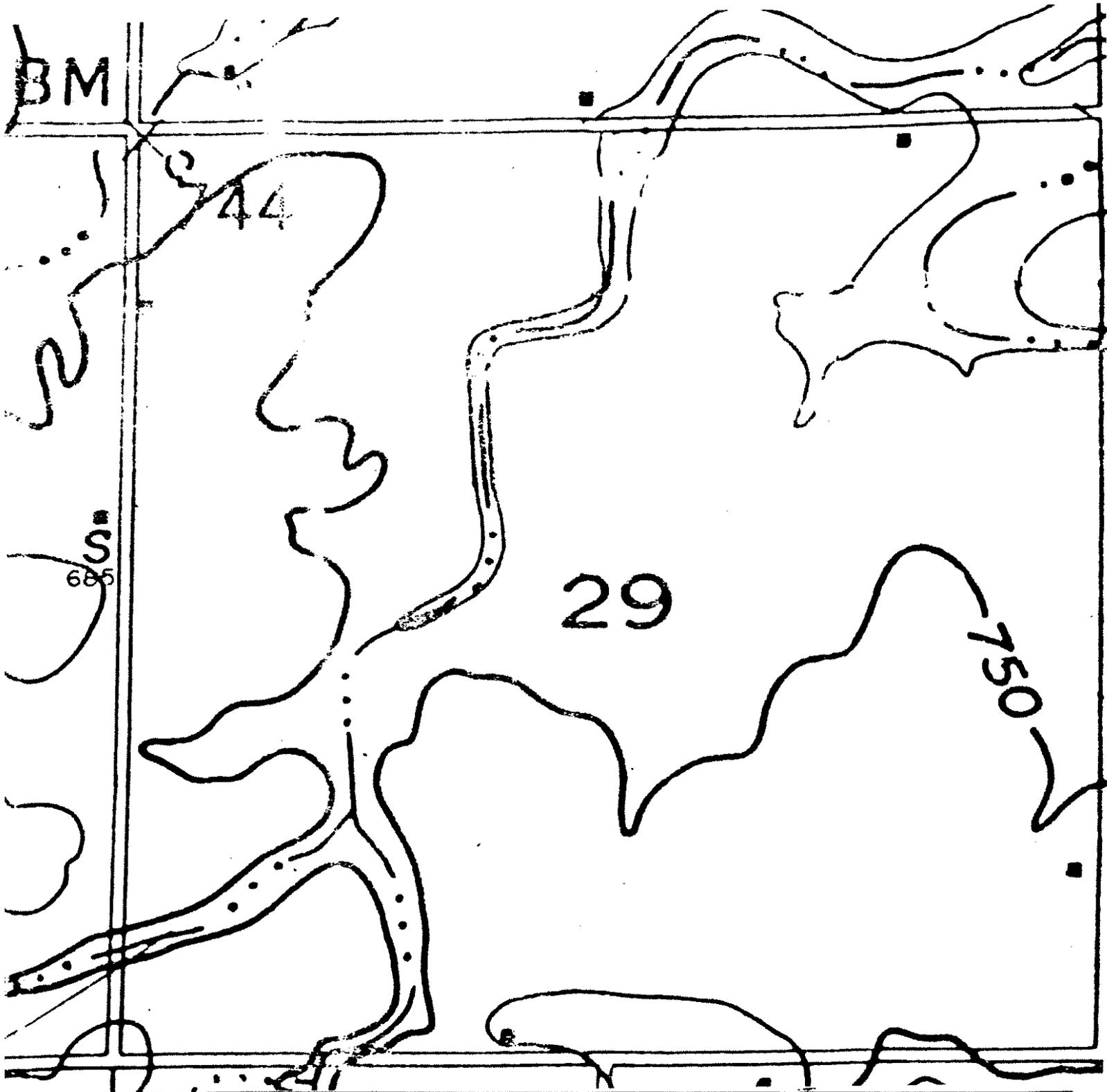
- A Zoning Case Maps (Location, Land Use, Zoning)
- B Revised Proposed Bateman Tracts received December 14, 2006, as revised at the public hearing (with indication of Potential Impact Radius for high pressure gas pipelines)
- C Summary of Evidence, Finding of Fact, and Final Determination of the Champaign County Zoning Board of Appeals as approved on remand on December 14, 2006 (UNSIGNED)

**Attachment A Land Use Map
Case 520-AM-05
March 24, 2006**



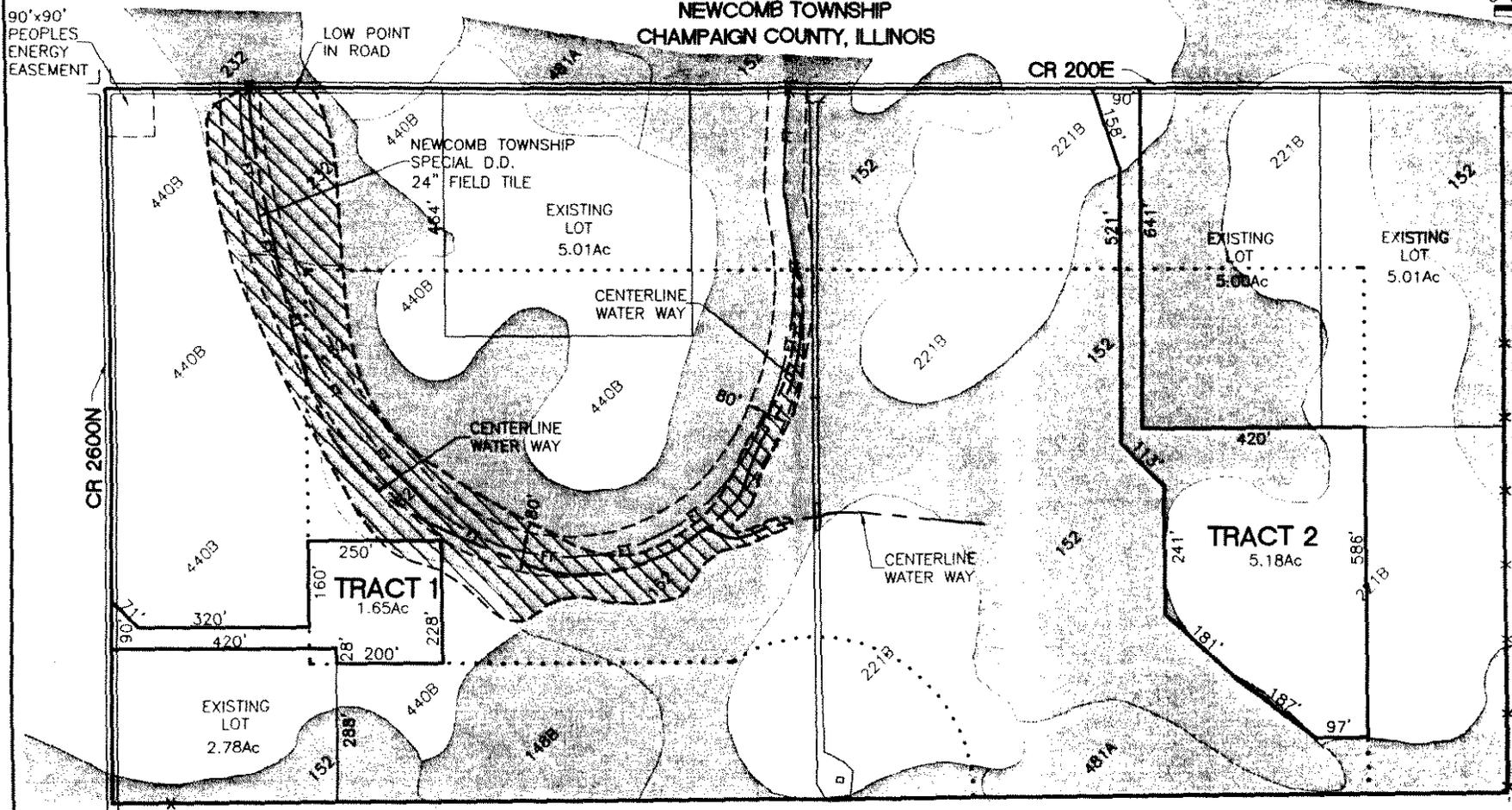
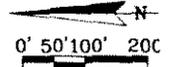
**Champaign County
Planning and Zoning Department
1776 E. Washington Street
Urbana, IL 61802
217-384-3708**

Attachment A Zoning Map
 Case520-AM-05
 March 24, 2006



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	 NORTH Champaign County Department of PLANNING & ZONING
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation-Recreation	R-3 Two-family Residence	B-1 Rural Tra Center	B-4 General	I-2 Heavy	

BATEMAN
PROPOSED TRACTS
NEWCOMB TOWNSHIP
CHAMPAIGN COUNTY, ILLINOIS



- BPF SOILS
- NON-BPF SOILS
- HIGH WATER BACKUP (SAME ELEV. AS LOW POINT IN ROAD)
- POTENTIAL IMPACT ZONE SETBACK LINE

		BPF SOIL		NON-BPF SOIL		LE
TRACT 1	1.65Ac.	152 DRUMMER	0.07Ac. - 4.2%	440B JASPER	1.58Ac. - 95.8%	
TRACT 2	5.18Ac.	152 DRUMMER	1.51Ac. - 29.2%	221B PARR	3.67Ac. - 70.8%	84.5

E 1/2-NE 1/4-SEC 29-T21N-R7E-3rd PM
CHAMPAIGN COUNTY, ILLINOIS

Revised: 12/18/
Revised: 12/14/
Revised: 12/13/
Revised: 11/8/C
Revised: 10/12/
Revised: 10/11/
Job #05114
Drawn By: BDB/CAM Date: 03/27/06 Revised: 07/13/
HDC
ENGINEERING
Professional Design Firm License No. 184-00322
201 West Springfield, Suite .
Champaign, Illinois 61824-0
Phone No. 217-352-6976

**AS REVISED AT THE PUBLIC HEARING
DECEMBER 14, 2006**

AS APPROVED ON REMAND
520-AM-05

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: ***RECOMMEND APPROVAL***

Date: **December 14, 2006**

Petitioner: **Gene Bateman**

Request: **Amend the Zoning Map to allow for the development of 2 single-family residential lots in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.**

SUMMARY OF EVIDENCE

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; and December 14, 2006**, the Zoning Board of Appeals of Champaign County finds that:

1. Gene Bateman and his wife, Caroline Bateman, are the owners of the subject property.
2. As described in the petition received October 12, 2005, the subject property consists of two tracts from an existing 62.20 acre parcel in the East Half of the Northeast Quarter of Section 29 of Newcomb Township that are as follows:
 - A. The north 631 feet of the East 1042.7 feet of the East Half of the Northeast Quarter of Section 29 for a total of 15 acres. The revised site plan received on March 29, 2006, increased this area to include the north 633 feet and the total area for this part increased to 15.13 acres.
 - B. The South 545 feet of the North 1960 feet of the East 641 feet of the Northeast Quarter of Section 29 for a total of 8 acres. The revised site plan received on March 29, 2006, changed this area to be the south 615 feet of the North 1960 feet of the East 591 feet of the Northeast Quarter of Section 29 for a revised total of 6.48 acres.
3. On the petition, when asked what error in the present Ordinance is to be corrected by the proposed change, the petitioner indicated the following:

Applying for RRO

4. Land use and zoning on the subject property and in the vicinity are as follows:

- A. The subject property is zoned AG-1 Agriculture and is currently vacant.
 - B. Land on all sides of the subject property is zoned AG-1 Agriculture and is used as follows:
 - (1) Land on the south and west is in agricultural production
 - (2) Land on the east, and north is in agricultural production and contains residential uses.
5. Regarding any relevant municipal or township jurisdiction:
- A. The subject property is not located within the mile-and-a-half extraterritorial planning jurisdiction of any village or municipality.
 - B. The subject property is located in Newcomb Township which has a plan commission. The plan commission has received notice of the meeting. Newcomb Township has protest rights on the proposed map amendment. In the event of a valid township protest, a three-fourths majority of the County Board will be required to grant the rezoning request instead of a simple majority. A township protest must be signed and acknowledged by the Township Board and filed with the Champaign County Clerk within 30 days of the close of the hearing at the ZBA. A certified mail notice of the protest must also be given to the Petitioner.

GENERALLY REGARDING THE REQUIREMENTS FOR ESTABLISHING AN RRO DISTRICT

6. Generally regarding relevant requirements from the *Zoning Ordinance* for establishing an RRO District:
- A. The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is in addition to the pre-existing (underlying) rural zoning. An RRO is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District.
 - B. Paragraph 5.4.3.C.1 of the *Zoning Ordinance* requires the Zoning Board of Appeals to make two specific findings for RRO approval which are the following:
 - (1) That the proposed site is or is not suitable for the development of the specified maximum number of residences; and
 - (2) That the proposed residential development will or will not be compatible with surrounding agriculture.
 - C. Paragraph 5.4.3 C.1 of the *Zoning Ordinance* requires the Zoning Board of Appeals to consider the following factors in making the required findings:
 - (1) Adequacy and safety of roads providing access to the site;
 - (2) Effects on drainage both upstream and downstream;
 - (3) The suitability of the site for onsite wastewater systems;
 - (4) The availability of water supply to the site;

- (5) The availability of emergency services to the site;
- (6) The flood hazard status of the site;
- (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat;
- (8) The presence of nearby natural or man-made hazards;
- (9) Effects on nearby farmland and farm operations;
- (10) Effects of nearby farm operations on the proposed residential development;
- (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated;
- (12) The Land Evaluation and Site Assessment (LESA) score of the subject site

GENERALLY REGARDING CHAMPAIGN COUNTY LAND USE POLICIES

7. The Land Use Goals and Policies were adopted on November 29, 1977, and were the only guidance for County Map Amendments until the Land Use Regulatory Policies-Rural Districts (LURP) were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review (CZR). The LURP's were amended September 22, 2005, but the amendment contradicts the current Zoning Ordinance and cannot be used in concert with the current Zoning Ordinance. The LURP's adopted on November 20, 2001, remain the relevant LURP's for discretionary approvals (such as map amendments) under the current Zoning Ordinance. Land Use Regulatory Policy 0.1.1 gives the Land Use Regulatory Policies dominance over the earlier Land Use Goals and Policies. LURP's that are relevant to any proposed RRO District are the following:
 - A. Land Use Regulatory Policy 1.1 provides that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. Other land uses can be accommodated in those areas provided that:
 - (1) the conversion of prime farmland is minimized;
 - (2) the disturbance of natural areas is minimized;
 - (3) the sites are suitable for the proposed use;
 - (4) infrastructure and public services are adequate for the proposed use;
 - (5) the potential for conflicts with agriculture is minimized.

- B. Land Use Regulatory Policy 1.2 states that on the best prime farmland, development will be permitted only if the land is well suited to it, and the land is used in the most efficient way consistent with other County policies.
- C. Land Use Regulatory Policy 1.3.3 provides that development beyond the basic development right will be permitted if the use, design, site and location are consistent with County policy regarding:
 - (1) the efficient use of prime farmland;
 - (2) minimizing the disturbance of natural areas;
 - (3) suitability of the site for the proposed use;
 - (4) adequacy of infrastructure and public services for the proposed use; and
 - (5) minimizing conflict with agriculture.
- D. Land Use Regulatory Policy 1.4.2 states that non-agricultural land uses will not be permitted if they would interfere with farm operations or would damage or negatively effect the operation of agricultural drainage systems, rural roads or other agriculture related infrastructure.
- E. Land Use Regulatory Policy 1.5.3 states that development will not be permitted if existing infrastructure, together with proposed improvements, is inadequate to support the proposed development effectively and safely without undue public expense.
- F. Land Use Regulatory Policy 1.5.4 states that development will not be permitted if the available public services are inadequate to support the proposed development effectively and safely without undue public expense.

GENERALLY REGARDING THE MAXIMUM ALTERNATIVE DEVELOPMENT WITHOUT AN RRO

- 8. Regarding the maximum number of new zoning lots that could be created out of the subject property without the authorization for the RRO Zoning District:
 - A. As amended on February 19, 2004, by Ordinance No. 709 that was based on Case 431-AT-03 Part A, the *Zoning Ordinance* requires establishment of an RRO District for subdivisions with more than three lots (whether at one time or in separate divisions) less than 35 acres in area each (from a property larger than 50 acres) and/or subdivisions with new streets in the AG-1, AG-2, and CR districts (the rural districts) except that parcels between 25 and 50 acres may be divided into four parcels.

- B. The subject property was a 77.22 acre parcel on January 1, 1998, and since that time there have been three five-acre lots created. The 2.8 acre parcel in the northwest corner also existed as a separate parcel on January 1, 1998. The current 62.2 acre parcel could be divided into a 35 acre tract lot and a 27.2 acre remainder lot without having to obtain approval of the Rural Residential Overlay District as amended in Case 431-AT-03, Part A.

GENERALLY REGARDING THE PROPOSED RRO DISTRICT

- 9. The plan titled Proposed Bateman Tracts received October 12, 2005, was submitted in fulfillment of the Schematic Plan requirement and it has been revised throughout the public hearing and indicates the following:
 - A. The RRO District is proposed to include five lots that occupy 23 acres of the 62.20 acre subject property. Lots 1, 2, 3 and 5 are proposed to be five acre lots and Lot 4 was proposed to be a three acre lot. Lot 4 was revised to be a 1.58 acre lot on the Revised Proposed Bateman Tracts received March 29, 2006.
 - B. The property is not within a FEMA regulated 100-year flood zone.
 - C. The site drains primarily to the northeast into an existing farmed waterway. The Revised Proposed Bateman Tracts received March 29, 2006, indicates the centerline of the waterway and indicates the high water backup elevation if the culvert near CR2600N would become blocked.
 - D. The Revised Proposed Bateman Tracts received July 13, 2006, has the following changes:
 - (1) A 90" x 90" easement for Peoples Energy is indicated at the intersection of CR2600N and CR200E.
 - (2) The centerline of the 24 inch diameter Newcomb Special Drainage District drainage tile is indicated. A 75 feet wide easement is indicated centered on the tile.
 - (3) Shared driveway entrances are indicated for Tracts 1 and 2 and for Tracts 4 and 5.
 - E. The Revised Proposed Bateman Tracts received October 12, 2006, has the following changes:
 - (1) An 80 feet wide easement for the Newcomb Special Drainage District tile.
 - (2) Revised lots.
 - F. The Revised Proposed Bateman Tracts received December 14, 2006, and as amended at the public hearing on December 14, 2006, has the following changes:
 - (1) The number of lots was reduced to two.
 - (2) All proposed lots are flag lots with access strips that are 680 feet long for Tract 2 and 340 feet long for Tract 1.

- F. The lots in the requested RRO District meet or exceed all of the minimum lot standards of the Zoning Ordinance.

GENERALLY REGARDING THE SOILS ON THE PROPERTY

- 10. A Natural Resource Report was prepared for the petitioner in 2003 and was based on the entire 77 acre tract. Staff re-examined the proposed 5 lot RRO and the results can be summarized as follows:
 - A. Regarding the types of soils on the total property, their relative extent, and the relative values:
 - (1) About 51% of the total 77 acre property consists of soils that are considered by Champaign County to be Best Prime Farmland and consists of Drummer silty clay loam, 0 to 2% slopes (map unit 152A); Ashkum silty clay loam (232A); Raub silt loam, 0 to 3% slopes (481A); and Clare silt loam, 1% to 5% slopes (663B; formerly 148B Proctor silt loam, 1% to 5% slopes).
 - (2) About 49% of the of the total 77 acre property consists of soils that are not considered Best Prime Farmland by Champaign County and consists of Wyanet silt loam, 2% to 5% slopes (622B; formerly 221B Parr silt loam, 2% to 5%); and Penfield Loam, 1% to 5% slopes (687B; formerly 440B Jasper loam, 1% to 5% slopes).
 - B. The original 77 acre property is Best Prime Farmland under the Champaign County Land Use Regulatory Policies, as follows:
 - (1) Best Prime Farmland is identified by the Champaign County Land Use Regulatory Policies – Rural Districts as amended on November 20, 2001, as any tract on which the soil has an average Land Evaluation Factor of 85 or greater using relative values and procedures specified in the *Champaign County, Illinois Land Evaluation and Site Assessment System*.
 - (2) The Land Evaluation Worksheet in the Natural Resource Report indicates the overall Land Evaluation factor for the soils on the subject property is 88. When encountering situations such as this, staff generally evaluates each site on an individual basis.
 - C. Regarding the types of soils on the proposed RRO lots making up the 22.1 acres, their relative extent, and the relative values:
 - (1) The proposed RRO lots have been located such that Best Prime Farmland soils make up only about 36% of the proposed lot area and Drummer silty clay loam makes up only about 25% of the proposed lot area.

- (2) An evaluation of the soils for the entire proposed RRO yields an average Land Evaluation score of 84.4 which rounds to 84 and thus the proposed RRO is not Best Prime Farmland on average.
 - (3) An evaluation of the soils for the specific lots proposed in this RRO as indicated on the revised Proposed Bateman Tracts received October 12, 2006, indicates the following:
 - (a) Tracts 1, 2, 3, and 5 are not Best Prime Farmland on average; and
 - (b) Tract 4 is Best Prime Farmland on average.
- D. Site specific concerns stated in the Natural Resource Action Report are as follows:
- (1) The subject property has 6 soils types that are moderate to severe limitations for the development in their natural unimproved state. The possible limitations include severe ponding and wetness that will adversely affect septic fields on the site.
 - (2) The subject area will be subject to erosion both during and after construction. Any areas left for more than 30 days, should be temporarily seeded or mulched and permanent vegetation established as soon as possible.
 - (3) The proposed design that uses 5 to 5.5 acre tracts is not an efficient use of prime farmland. A lot size of 1 acre would be more efficient use of the land.
 - (4) Drainage ways noted on the Surface Water Flow Map need to be maintained. A significant volume of water flows through the property in drainage ways that should be guarded with permanent easements.

GENERALLY REGARDING THE ADEQUACY AND SAFETY OF ROADS

- 11. Regarding the adequacy and safety of roads providing access to the proposed RRO District:
 - A. The Institute of Transportation Engineers publishes guidelines for estimating of trip generation from various types of land uses in the reference handbook *Trip Generation*. Various statistical averages are reported for single family detached housing in *Trip Generation* and the average Aweekday@ traffic generation rate per dwelling unit is 9.55 average vehicle trip ends per dwelling unit. *Trip Generation* does not report any trip generation results for rural residential development.
 - B. The staff report *Locational Considerations for Rural Residential Development In Champaign County, Illinois*, that led to the development of the RRO Amendment, incorporated an assumed rate of 10 average daily vehicle trip (ADT) per dwelling unit for rural residences. The assumption that each proposed dwelling is the source of 10 ADT is a standard assumption in the analysis of any proposed RRO.

- C. Based on the standard assumption that each proposed dwelling is the source of 10 ADT, the 5 proposed single-family residence in the requested RRO District are estimated to account for an increase of approximately 50 ADT in total but it is unclear if all the traffic flow will be in the same direction or if the traffic will be split between the east and the west and north and south.
- D. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
- (1) A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
 - (2) A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
 - (3) A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
 - (4) A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.
- E. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines also recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet. The roads in question both meet this minimum standard.
- F. The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). An IDOT map of AADT data for 2001 in the vicinity of the subject property is included as an attachment to the Preliminary Memorandum and indicates the following:
- (1) There is no AADT data reported for CR 2600 N between the subject property and the intersection of CR200E. The closest ADT in the vicinity of the subject property is approximately 1 mile south on CR2500N and has an ADT of 250.
 - (2) The pavement width of the both roadways, CR200E and CR 2600N adjacent to the subject property is approximately 18' wide. These roadways are contained within a minimum ROW width of 40 feet in the vicinity of the subject parcel and is constructed of oil and chip.

- G. The relevant geometric standards for visibility are found in the *Manual of Administrative Policies of the Bureau of Local Roads And Streets* prepared by the Bureau of Local Roads and Streets of the Illinois Department of Transportation. Concerns are principally related to the minimum stopping sight distance. Design speed determines what the recommended distance is. In regards to the proposed RRO, staff utilized the typical design speed of 55 mph for these two rural roadways and there appears to be no concerns related to stopping sight distance. The appropriate stopping site distance at 55 mph is 400 feet.
- H. The intersection of CR200E and CR2600E has no stop signs like most rural intersections and so there are visibility concerns for traffic approaching the intersection. Evidence relevant to traffic visibility concerns is as follows:
- (1) The relevant geometric standards for traffic visibility are found in the *Manual Of Administrative Policies Of The Bureau Of Local Roads And Streets* prepared by the Bureau of Local Roads and Streets of the Illinois Department of Transportation. The “minimum stopping sight distance” is determined by design speed and varies as follows:
 - A design speed of 30 miles per hour requires a minimum distance of 200 feet.
 - A design speed of 40 miles per hour requires a minimum distance of 275 feet.
 - A design speed of 50 miles per hour requires a minimum distance of 400 feet.
 - A design speed of 60 miles per hour requires a minimum distance of 525 feet.
 - A design speed of 70 miles per hour requires a minimum distance of 625 feet.
 - (2) The Champaign County Zoning Ordinance prohibits construction and establishes vegetation maintenance requirements in corner visibility triangles that are 50 feet back from the right of way lines at all street intersections. For Township roads with 60 feet wide rights of ways this provides a guaranteed stopping sight distance of only about 80 feet which is inadequate for speeds as low as 30 miles per hour.
 - (3) The speed limit on unmarked rural roads is 55 miles per hour which requires a corner visibility triangle of about 462 feet.
- I. Testimony at the April 13, 2006, public hearing regarding traffic can be summarized as follows:
- (1) Doug Turner who resides at 248CR2500N, Mahomet testified that he was concerned with the condition of CR200E and about three years ago CR200E was a gravel road that maybe two or three people drove on per week but now there are about 60 or 70 cars that travel CR200E per day. He said that CR200E has been oiled but it is falling apart and there is a 20 feet wide area that is impassable when a flood even occurs and he does not believe that CR200E has the ability to handle anymore traffic in its current condition.

condition.

- (2) Chris Doenitz who resides at 125 CR2300N, Mahomet testified that he travels CR200E with farm equipment and currently he has to dodge mailbox after mailbox and the more houses that built the worse it will become. He said that CR200E is an inadequate road for large farm equipment and traffic and the continued creation of five acre lots along the roads creates havoc for the new landowners and farmers. He said that if the RROs are approved they should be required to install their own infrastructure.

- J. Overall, the subject property and proposed RRO are comparable to “much better than typical” conditions for Champaign County in terms of common conditions for the adequacy and safety of roads providing access because the five proposed residences will only add about a 20% increase in traffic and the Average Annual Daily Traffic will still be less than the maximum recommended.

GENERALLY REGARDING DRAINAGE

12. Regarding the effects of the proposed RRO District on drainage both upstream and downstream:
 - A. The Engineers statement of general drainage conditions received for this five lot RRO dated October 4, 2005, as well as the revised site plan indicates the following:
 - (1) There is approximately ten (10) foot of topographic fall on the subject property from the southern property line to the intersection of CR 2600 N and CR 200E. There are drainage ways that bisect the northern portion of the property that feed into branches of the tributary of the Sangamon River. There is an approximate 1.5% slope on average for the subject property. The topographic contours do not indicate any areas of significant storm water ponding on the subject property. The Champaign County Zoning Ordinance does not contain minimum acceptable ground slope but 1% is normally considered a minimum desirable ground slope for residential development.
 - (2) Most of the subject property drains directly to a tributary of the Sangamon River.
 - (3) None of the property is located below the Base Flood Elevation (100-year flood).
 - (4) Storm water detention is not required due to the low percent of impervious area for the proposed RRO.
 - (5) Based on records in the Department of Planning and Zoning, Newcomb Special Drainage District has a 20 inch to 24 inch drainage tile that is located generally in the northeast corner of the subject property. The applicants engineer has provided the centerline of this tile and indicated the High Water Back-up area on the revised schematic plan.

- B. Testimony at the April 13, 2006, public hearing regarding drainage can be summarized as follows:
- (1) Doug Turner who resides at 248CR2500N, Mahomet testified generally as follows:
 - (a) He was representing the Newcomb Special Drainage District and the three Commissioners of the District are very concerned about the proposal.
 - (b) There is a 24 inch diameter district tile that runs through the proposed RRO and the drainage district is concerned about their ability to access the tile with the houses that are proposed to be constructed. He said that the District is concerned that the new owners will not be aware that the tile exists and the tile will be damaged during construction.
 - (c) The 24 inch tile is the only tile on the property that is a drainage district tile but there are 10 inch to 15 inch private tiles that branch off on the subject property.
 - (d) The drainage district tile is approximately 90 years old and at some point it will need to be replaced . At a minimum he estimates that the drainage district will require a 75 feet wide easement for maintenance of the tile.
 - (e) He said that the bridge to the south has adequate capacity but the bridge to the north is very old and is inadequate for a three inch rain. He said that he has lived in this neighborhood for 50 years and he has seen water backed up on this farm numerous times.
- C. Testimony at the July 13, 2006, public hearing regarding drainage can be summarized as follows:
- (1) Doug Turner who resides at 248CR2500N, Mahomet testified generally as follows:
 - (a) The Newcomb Special Drainage District Commissioners would like an 80 feet wide easement for the drainage district tile and they do not want any permanent structures or trees in the easement nor should there be any hook-ups to the tile without the prior written approval by the drainage district.
 - (b) The Newcomb Special Drainage District Commissioners would like the Batemans to grass the entire waterway on their property.
- D. Based on the available information the subject property is comparable to “much better than typical” conditions for Champaign County in terms of common conditions for the drainage effects on properties located both upstream and downstream because of the following:
- (1) None of the subject property is located in the Special Flood Hazard Area.
 - (2) Approximately 64% of the 5 proposed RRO lots is soil that is not considered a “wet soil”.

- (3) The subject property has good surface drainage with adequate drainage outlets and does not drain over adjacent land.

GENERALLY REGARDING SUITABILITY OF THE SITE FOR ONSITE WASTEWATER SYSTEMS

13. Regarding the suitability of the site for onsite wastewater systems:
 - A. No actual soil investigations or soil percolation test results have been submitted and none are required as a submittal for an RRO rezoning. As a practical matter the proposed buildable areas of the subject property are along the eastern and northern edges of the site. Proposed lot 3 contains the lowest elevation on the site as well as an existing drainage way but is still above the Base Flood Elevation. The buildable area for lot 3 is going to be near the center of the lot and in the southwest corner. The subject sites is made up of four different soils, Parr (221B), Ashkum (232), Drummer (152), and Jasper (440B).
 - B. The pamphlet *Soil Potential Ratings For Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet contains worksheets for 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). The worksheets for the soils on the best buildable area of the subject property are an attachment to the Preliminary Memorandum and can be summarized as follows:
 - (1) Jasper loam, (soil unit 440B), with 1% to 5% slopes has a very high suitability for septic tank leach fields with a soil potential index of 79. This soils is found to be present on lots 1 through 3 and is characterized as a moderate rated soil due to the slow percolation rate. The soil comprises 71%, 72% and 52% of lot 1, 2 and 3 respectively. Parr silt loam, 2% to 5% slopes (map unit 221B), has a very high suitability for septic tank leach fields with a soil potential index of 100. There are no required corrective measures necessary with this soil. There are only four soils in Champaign County with a higher rating and 55 soils that have lower ratings. Parr silt loam comprises 31% and 71% of Lots 4 and 5 respectively and it makes up most of the best buildable area on these two lots. A trace amount of Parr silt loam is also contained on lot 3.
 - (2) Parr silt loam, 2% to 5% slopes (map unit 221B), has a very high suitability for septic tank leach fields with a soil potential index of 100. There are no required corrective measures necessary with this soil. There are only four soils in Champaign County with a higher rating and 55 soils that have lower ratings. Parr silt loam comprises 53 and 54 percent of Lots 4 and 5 respectively and it makes up most of the best buildable area on these two lots. A trace amount of Parrr silt loam is also contained on lot 3.

- (3) Drummer silty clay loam, (soil unit #152) has a low suitability for septic tank leach fields with a soil potential index of only 53. Several corrective measures are required. There are only 19 soils with a lower suitability than Drummer and 40 soils with a higher suitability. Drummer soil is found on 4 of the five lots and comprises no more than 47% on lot 4 (the highest) and 16% of lot 1 (the lowest) concentration. No Drummer soils are situated on lot 3.
 - (4) Ashkum silty clay loam, (Soil unit #232), has a low suitability for septic tank leach fields with a soil potential index of 96 but the low permeability requires a large absorption field. There are only nine soils in Champaign County with a higher rating and 50 soils that have lower ratings. This soil makes up about 48% (about 2.4 acres) of the lot 3 and is not found on any of the other proposed RRO lots.
- C. Overall septic suitability of the soils on the subject property can be summarized as follows:
- (1) About 60% of the subject property consists of soils with a high or very suitability for septic tank leach fields.
- D. Based on the available information, the suitability of the soils on the subject property for septic systems are comparable to the “much better than typical” conditions for Champaign County in terms of common conditions for the septic suitability of soils for the proposed RRO District because of the following:
- (1) About 60% of the subject property consists of soils with a very high suitability for septic tank leach fields.

GENERALLY REGARDING THE AVAILABILITY OF GROUNDWATER AT THE SITE

14. Regarding the availability of water supply to the site:
- A. The Staff report *Locational Considerations And Issues For Rural Residential Development In Champaign County, Illinois* included a map generally indicating the composite thickness of water bearing sand deposits in Champaign County. The map was an adaptation of a figure prepared by the Illinois State Geological Survey for the Landfill Site Identification Study for Champaign County. A copy of the map from the Staff report is included as an attachment to the Preliminary Memorandum and indicates that the subject property is not within the area of limited groundwater availability.
 - B. Based on the available information, groundwater availability of the subject property for the proposed RRO District is comparable to the “typical” conditions for Champaign County in terms of common conditions for groundwater availability and the impact on neighboring wells because of the following:
 - (1) the subject property is not in the area with limited groundwater availability; and
 - (2) there is reasonable confidence of water availability; and
 - (3) there is no reason to suspect an impact on neighboring wells.

GENERALLY REGARDING THE AVAILABILITY OF EMERGENCY SERVICES TO THE SITE

15. Regarding the availability of emergency services to the site:
 - A. The subject property is located approximately 5.3 road miles from the Cornbelt Fire Protection District station in Mahomet. The Fire District chief has been notified of this request.
 - B. The nearest ambulance service is in Champaign.
 - C. Based on the available information, the emergency services conditions on the subject property are comparable to the “typical” conditions for Champaign County because of the following:
 - (1) The proposed RRO District is between 4 and 5 road miles from the Cornbelt Fire Protection District station in Mahomet.

GENERALLY REGARDING FLOOD HAZARD AND OTHER NATURAL OR MANMADE HAZARDS

16. Regarding the flood hazard status of the site:
 - A. Pursuant to Federal Emergency Management Agency Panel Number 170894- 0150B, the entire subject property is not located within the mapped Special Flood Hazard Area.
17. Regarding the presence of nearby natural or man-made hazards;
 - A. Gas pipeline easements are mentioned in the Open Title Policy submitted by the petitioner. Natural gas pipelines for the Manlove Gas Storage facility run along the south side of the subject property and across the street along the north and east sides of the subject property. There are also natural gas injection wells for the Manlove Gas Storage facility on the midpoint of the west side of the property and across the street at the northeast corner of the subject property.
 - B. Minimum safety requirements for gas pipelines are included under Title 49 of the Code of Federal Regulations (CFR), Part 192 that establishes the following:
 - (1) Potential impact radius (PIR) is defined by 49 CFR 192.03 as the radius of a circle within which the potential failure of a gas pipeline could have significant impact on people or property. PIR is determined by the formula $r=0.69*(\sqrt{p*d^2})$, where r’ is the radius of a circular area in feet surrounding the point of pipeline failure, p’ is the maximum allowable operating pressure (MAOP) in the pipeline segment in pounds per square inch and d’ is the nominal diameter of the pipeline in inches.
 - (2) Class location is based upon population density using a standard class location unit that is defined by 49 CFR 192.5 as an onshore area that extends 220 yards on either side of the centerline of any continuous one mile length of pipeline. Defined class locations are the following:
 - (a) Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

- (b) A Class 1 location is any class location unit that has 10 or fewer buildings intended for human occupancy
 - (c) A Class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy.
 - (d) A Class 3 location is any class location unit that has more than 46 buildings intended for human occupancy; or anywhere a pipeline lies within 100 yards (91 meters) of an identified site, which is either a building or a small, well-defined outside area (such as a playground, recreation area, outside theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12 month period. (The days and weeks need not be consecutive.)
 - (e) A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.
- (3) Class location may change as a result of development within 220 yards of a pipeline and whenever an increase in population density indicates a change in class location for a segment of pipeline operating at a hoop stress not commensurate with that class location the pipeline operator must within 24 months of the change in class location make a study as outlined in 49 CFR 192.609 and reduce the operating pressure of the pipeline in the covered segment to that allowed by 49 CFR 192.611.
- (4) A high consequence area is undefined but is apparently an area where population density is great enough that the consequences in terms of impact on people or property from an undesired event are so great that a pipeline operator is required to develop and follow a written integrity management plan for all pipeline segments within high consequence areas. High consequence areas are classified as the following:
- (a) An area defined as either a Class 3 or 4 location under 49 CFR 192.5; or any area in a Class 1 or 2 location where the potential impact radius is greater than 660 feet (200 meters), and the area within a potential impact circle contains 20 or more buildings intended for human occupancy; or any area in a Class 1 or 2 location where the potential impact circle contains an identified site, which is either an outdoor area like a playground or other public gathering area; or a building such as a church, public meeting hall, or other public gathering place.
 - (b) Or the area within a potential impact circle containing 20 or more buildings intended for human occupancy; or an identified site.

- C. Regarding specific safety considerations related to the high pressure gas pipelines near the subject property:
- (1) The area around the subject property is classified under 14 CFR 192 as follows:
 - (a) The high pressure natural gas pipeline that follows the south and east lot lines of the subject property is apparently a Class 1 location.
 - (b) The high pressure natural gas pipeline and injection well that sits at the midpoint of the west lot line of the subject property is apparently a Class 1 location.
 - (c) There are also no high consequence areas on or near the subject property.
 - (2) In a letter dated July 12, 2006, and in testimony at the July 13, 2006, meeting Thomas L. Purrachio, Gas Storage Manager for The Peoples Gas Light and Coke Company testified as follows:
 - (a) Peoples' Gas facilities in the vicinity of the subject property are as follows:
 - i. A gas injection well is located on a small separate tract of land on the west side of the subject property and is served by a 12 inch diameter high pressure natural gas pipeline that extends to the north and has an associated 12 inch diameter alcohol pipeline.
 - ii. Three pipelines are adjacent to the south lot line of the subject property and also across the street from the subject property on the north and east sides and consist of a 12 inch diameter high pressure natural gas line and a 12 inch diameter alcohol line and a water line.
 - iii. There is a separate small tract of land at the northeast corner of the property where the three pipelines that are across the street from the subject property on the east side cross to the north side.
 - iv. People's Gas also has easements over the subject property that give People's the right to lay any additional lines they find "necessary or desirable" and when they install these new lines their overall easement expands by an appropriate dimension described in the easement document. They are limited, however, to place their lines within 50 feet of a section line, a quarter section line, a highway right-of-way line, or an established fence line.
 - v. The gas pipelines are nominal 12 inch diameter with a maximum operating pressure of 2,000 pounds per square inch (PSI) and are located approximately three to five feet below grade. Similar pipelines service the adjacent gas injection wells. This results in a

potential impact radius of 393 feet which is much greater than the potential impact radius for gas lines at 30 or 40 or 60 or 150 PSI that might be in normal subdivisions.

- (b) Peoples Gas requests the following:
- i. A perimeter non-buildable easement area should be established on Tract 3 with a total easement width of 90 feet.
 - ii. The conceptual, preliminary, and final plats of subdivision should show the pipeline easement areas consistent with the 1965 easement document and any zoning approval should delineate maximum permissible building areas and expressly prohibit any construction of principal or accessory buildings anywhere outside the maximum permissible building areas. The majority of pipeline incidents nationwide are the result of third-party damage and the likelihood of third-party damage naturally increases with population density.
 - iii. Peoples Gas has not asked the Board to prohibit building within the red zone on the map of Manlove Storage Area and Bateman Property Development that is attached to the letter dated July 12, 2006, but the red zone is indicated to educate the Board and the public about requirements of the pipeline safety code.
 - iv. Peoples Gas has an outstanding safety record and endeavors to meet or exceed all pipeline safety regulations but the 393 feet of potential impact radius is a fair approximation of the pipeline and well rupture that occurred in 1998. In that event the wind was blowing from the southwest to the northeast and the farm ground was scorched for quite a distance to the northeast and one should not expect a pipeline rupture to go straight up, depending upon the weather.
 - v. The pipeline in the ground at the subject property already meets the more stringent requirement of a Class 2 area and Peoples Gas would not have to replace the existing pipelines if the subdivision were built as proposed.
 - vi. Although not a safety issue, on occasion maintenance activities require venting of gas at any time of day or night without notice to adjacent property owners that might result in noise for a few hours.

D. Testimony at the April 13, 2006, public hearing regarding the presence of high pressure gas pipelines can be summarized as follows:

- (1) Doug Turner who resides at 248CR2500N, Mahomet testified that his most vital concern about the proposed RRO is the adjacency to the Peoples Gas line. Peoples

Gas safety record is excellent but several years ago one of their lines ruptured and if the Board could have seen the fire that was created and the hole that was left the Board would understand his concern. He said that the fire was so hot that it melted the oil road and when the fire was put out a semi-tractor and trailer would have fit in the hole.

- E. The Revised Proposed Bateman Tracts received July 13, 2006, indicates the following in regards to pipeline safety:
- (1) The proposed RRO will affect the current class locations as follows:
 - (a) The high pressure natural gas pipeline that follows the east lot line of the subject property will take on two new buildings intended for human occupancy but should remain a Class 1 location.
 - (b) The high pressure natural gas pipeline and injection well at the midpoint of west lot line of the subject property and across the street to the north will take on three new buildings intended for human occupancy and also remain a Class 1 location.
 - (c) The proposed RRO will not create any high consequence areas.
 - (2) No part of any buildable area on any of the tracts is within the Potential Impact Radius of the adjacent high pressure gas pipeline.
- F. Based on the available information, the proposed RRO District is comparable to “more or less typical” conditions in terms of common conditions for flood hazard and other natural or man-made hazards for rural residential development in Champaign County because of the following:
- (1) None of the subject property is within the Special Flood Hazard Area.
 - (2) None of the roads that are required to access the subject property by emergency services are located within the 100 year floodplain.
 - (3) All proposed RRO lots have all of the buildable area outside of the Potential Impact Radius of high pressure gas pipelines on the north and east sides of the property.

GENERALLY REGARDING COMPATIBILITY WITH SURROUNDING AGRICULTURE AND THE EFFECTS OF NEARBY FARM OPERATIONS ON THE DEVELOPMENT

18. Regarding the likely effects of nearby farm operations on the proposed development:
- A. Modern agricultural operations are generally incompatible with rural residential development because of the following:
- (1) Row crop production produces noise, dust and odors that homeowners sometimes find objectionable. Farm operations may begin early and continue until well after dark exacerbating the impact of noise related to field work.

- (2) Livestock management facilities produce odors that homeowners sometimes find objectionable.

- B. Row crop production agriculture occupies most of the land area within the vicinity of the subject property.

- C. A diagram of livestock management facilities within one mile of the proposed RRO was prepared by staff and handed out at the April 13, 2006, meeting. The diagram indicates the following:
 - (1) There are apparently four active livestock management facilities within a one mile radius of the subject property and one inactive facility that are located as follows:
 - (a) An apparently inactive livestock management facility is located about ½ mile northeast of the subject property and is indicated as facility A on the staff diagram.

 - (b) A livestock management facility with apparently less than 50 cows is located immediately north of the subject property. This facility is indicated as B on the staff diagram.

 - (c) A livestock management facility is located south of and adjacent to the subject property. Doug Turner testified at the April 13, 2006, public hearing that he is the landowner to the south of the subject property there is always in excess of 50 cows at this property. Mr. Turner also testified that his sons own property east of the proposed RRO and their properties also have in excess of 50 cows and the cows travel to the fence line when the farmland is in pasture.

- D. Overall, the effects of nearby farm operations on the subject property are comparable to “much worse than typical conditions” for Champaign County because of the following:
 - (1) the proposed RRO District is bordered on one sides by livestock management facilities.

GENERALLY REGARDING THE LESA (LAND EVALUATION AND SITE ASSESSMENT) SCORE

- 19. Regarding the LESA (Land Evaluation and Site Assessment) score of the proposed RRO District:
 - A. The Champaign County, Illinois Land Evaluation and Site Assessment (LESA) System is a method of evaluating the viability of farmland for agricultural uses. The LESA system results in a score consisting of a Land Evaluation portion and a Site Assessment portion.

The score indicates the degree of protection for agricultural uses on that particular site and the degrees of protection are as follows:

- (1) An overall score of 220 to 300 indicates a very high rating for protection of agriculture.
- (2) An overall score of 200 to 219 indicates a high rating for protection of agriculture.
- (3) An overall score of 180 to 199 indicates a moderate rating for protection of agriculture.
- (4) An overall score of 179 or lower indicates a low rating for protection of agriculture.

B. The LESA worksheets for the subject property are an attachment to the Preliminary Memorandum. The component and total scores are as follows:

- (1) The Land Evaluation component rating for the proposed RRO District is 84.
- (2) The Site Assessment component rating for the proposed RRO District is 136 to 142.
- (3) The total LESA score is 220 to 226 and is a “high” rating for protection.
- (4) For comparison purposes, development on prime farmland soils located at or near a municipal boundary within an area with urban services should typically score between 154 and 182.

C. Based on the available information, the LESA score for the subject property compares to common conditions in Champaign County as follows:

- (1) The Land Evaluation score of 84 is comparable to much better than typical conditions for Champaign County.
- (2) The Site Assessment score of 136 to 142 is comparable to much better than typical conditions for Champaign County.
- (3) The total LESA score of 220 to 226 is comparable to much better than typical conditions for Champaign County.

GENERALLY REGARDING THE EFFICIENT USE OF BEST PRIME FARMLAND

20. The soils on the original 77 acres are considered best prime farmland but the proposed RRO averages to be less than Best Prime Farmland.

GENERALLY REGARDING THE EFFECTS ON WETLANDS, ARCHAEOLOGICAL SITES, AND NATURAL AREAS

21. Regarding the effects on wetlands, endangered species, natural areas, and archaeological sites:
- A. A copy of the Agency Action Report from the Endangered Species Program of the Illinois Department of Natural Resources was received on October 2, 2005, and included as an attachment to the Preliminary Memorandum. The subject property does not contain any significant wild life habitat. The subject property is not near any historic site. Nor are there any endangered species at the site or in the vicinity that could be adversely impacted. Therefore, the Department of Natural Resources terminated the consultation on October 20, 2005.

- B. The subject property is not in an area of high probability for archaeological resources. The Illinois State Historic Preservation Agency may need to be contacted regarding this project. Although there are no known significant resources within this project area.
- C. Based on the available information, the proposed RRO District is comparable to “typical” conditions in terms of common conditions for wetlands, endangered species, natural areas, and archaeological sites.

GENERALLY REGARDING OVERALL SUITABILITY OF THE SITE FOR RURAL RESIDENTIAL DEVELOPMENT

- 22. Compared to common conditions found at rural sites in Champaign County, the subject property is similar to the following:
 - A. “Ideal or Nearly Ideal” conditions for adequacy of roads.
 - B. “Much Better Than Typical” conditions for the following factors:
 - (1) effects on drainage.
 - (2) septic suitability;
 - (3) LESA score,
 - (4) Flood Hazard Status,
 - C. “More or Less Typical” conditions for the following four factors:
 - (1) Emergency Services;
 - (2) availability of water;
 - (3) Natural or man-made hazards;
 - D. “Much Worse Than Typical” conditions for the following two factors:
 - (1) effects of farms.

GENERALLY REGARDING COMPATIBILITY WITH SURROUNDING AGRICULTURE AND THE EFFECTS OF THE DEVELOPMENT ON NEARBY FARM OPERATIONS

- 23. Regarding the likely effects of the proposed development on nearby farm operations:
 - A. The adjacent land use on two sides of the subject property is agriculture and the property is surrounded by agriculture. Direct interactions between the proposed development and nearby farmland are likely to include the following:
 - (1) The added traffic from the proposed development will increase the conflicts with movement of farm vehicles. See the concerns related to adequacy and safety of roads.

The two single-family dwellings that will result from the proposed RRO will generate 100% more traffic than the non-RRO alternative development of only 1 homes.

- (2) Trespassing onto adjacent fields may be more likely resulting in damage to crops or to the land itself. The two single-family dwellings that will result from the proposed RRO may generate 100% more trespass than the non-RRO alternative development of only 1 home.
 - (3) Litter may blow into the adjacent crops making agricultural operations more difficult. The two single-family dwellings that will result from the proposed RRO may generate 100% more litter than the non-RRO alternative development of only 1 home.
 - (4) It is unlikely that drainage from the proposed development would significantly effect any adjacent farm operation.
 - (5) If trees are planted close to the perimeter of the property, they can be expected to interfere with some farming operations (such as harvesting) and may contribute to blockage of underground tiles (if any exist). Perimeter fencing, if installed, could also interfere with farming operations. It is unlikely that either trees or fencing on the proposed development would add any effects to adjacent farmland as compared to the non-RRO development.
- B. The indirect effects are not as evident as the direct effects.
- (1) A potential primary indirect effect of non-farm development on adjacent farmers (as identified in *Locational Considerations and Issues for Rural Subdivisions in Champaign County*) is that potential nuisance complaints from non-farm neighbors about farming activities can create a hostile environment for farmers particularly for livestock management operations.
 - (2) Champaign County has passed a right to farm resolution that addresses public nuisance complaints against farm activities. The resolution exempts agricultural operations from the Public Nuisance Ordinance (except for junk equipment) but does not prevent private law suits from being filed.
 - (3) The State of Illinois Livestock Management Facilities Act (510ILCS 77) governs where larger livestock facilities (those with more than 50 animal units, which is equivalent to 125 hogs) can be located in relation to non-farm residences and public assembly uses (churches, for example). The separation distances between larger livestock facilities and non-farm residences is based on the number of animal units occupying the livestock facility, and the number of non-farm residences in the vicinity. The smallest setback distance is for livestock management facilities of between 50 and 1,000 animal units and is 1/4 mile from any non-farm residence and 2 mile from any populated area. Regarding livestock facilities within the vicinity of the subject property:

- (a) A diagram of livestock management facilities within one mile of proposed RRO was prepared by staff and handed out at the April 13, 2006, meeting and testimony regarding livestock management facilities was given at the April 13, 2006 meeting. Active livestock management facilities border the subject property on the north, east, and south sides and each existing facility is already within one-quarter mile of an existing non-farm residence. None of the existing facilities are currently located within one-half mile of a populated area (10 or more non-farm residences).
- (b) The livestock management facilities on the east and south sides already have more than 50 cows each. With the proposed RRO each of these facilities could expand up to 1,000 cows with no new requirement under the Illinois Livestock Management Facilities Act. The proposed RRO would create a populated area within one-half mile of the facilities and expansion beyond 1,000 cows at each facility would be effected by the proposed RRO unless the expansion is limited such that the fixed capital cost of the new components constructed within a 2-year period could not exceed 50% of the fixed capital cost of a comparable entirely new facility.
- (c) It is not clear how large the livestock management facility on the north is in terms of livestock units but it appears to be less than 50. Facilities with fewer than 50 livestock units are exempt from the requirements of the Illinois Livestock Management Facilities Act. The proposed RRO would not create a populated area within one-half mile of the facility and expansion beyond 50 animal units would not be limited by the proposed RRO.

24. Regarding possible special conditions of approval:

A. Regarding the presence of the Manlove Gas Storage Facility on the subject property and the related high pressure gas pipelines on the property and related gas injection wells on adjacent property:

- (1) Prospective lot purchasers should be aware that the property is part of the Manlove Gas Storage Facility and the following condition will provide that notice:

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

to ensure that

as much as possible, all prospective lot purchasers have full knowledge of the Manlove Gas Storage Facility prior to purchase of a lot.

- (2) Prospective lot purchasers should be made aware of the existing easements for Peoples Gas Light and Coke Company. Such notice would generally be given in a Plat of Subdivision but because the proposed lots are larger than five acres and because there are no new streets, a Plat of Subdivision cannot be required. The following condition will provide notice of the easements:

Prospective lot purchasers shall be made aware of the presence of easements for Peoples Gas Light and Coke Company as originally granted on November 30, 1965, and recorded at pages 71 and 72 in Book 809 of the Office of the Champaign County Recorder of Deeds; and all said easements shall be specifically mentioned in any deed for any lot in the Rural Residential Overlay District in Zoning Case 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 that

as much as possible, all prospective lot purchasers and lot owners have full knowledge of these easements before and after purchase.

- (3) Prospective lot purchasers should be made aware that gas venting occurs at injection wells at anytime of the day or night and without prior warning and results in significant noise and the following condition will provide that notice:

Prospective lot purchasers shall be made aware that noise is caused by gas venting that occurs at gas injection wells in the vicinity of the property at anytime of the day or night and without prior warning

to ensure that

as much as possible, all prospective lot owners have full knowledge of the gas venting and resultant noise prior to purchase of a lot.

B. Regarding compliance with the Champaign County Stormwater Management Policy:

- (1) Paragraph 7.2 B. of the Champaign County Stormwater Management Policy requires that if no easement exists for existing agricultural drainage tile an easement shall be granted for access and maintenance. There is no easement for the underground agricultural drainage tile in the swale and the following condition would document this requirement:

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

to grow nor shall any connection be made without prior written approval of the Newcomb Special Drainage District

to ensure that

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.

- (2) Even if the petitioner replaces the tile in the swale there may be other tile that must be replaced by lot owners if disturbed during construction and the following condition will provide notice of that requirement:

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

to ensure that

the existing agricultural 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.

- C. The following special conditions will minimize the encroachment of driveways and mailboxes in the proposed RRO District into the right of way:

- (1) **All driveway entrance widths shall be 30 feet wide with a radius as approved by both the Newcomb Township Highway Commissioner and the Cornbelt Fire Protection District and evidence of both approvals shall be submitted to the Zoning Administrator prior to the issuance of any Zoning Compliance Certificate**

to ensure that

emergency services vehicles have adequate access to all properties.

- D. The following special conditions will ensure that the homes built outside of the Potential Impact Radius of the high pressure gas pipelines are accessible by emergency vehicles:

- (1) **All homes shall be served by driveways that have a paved surface consisting of at least six inches of rock that is at least 20 feet wide and a corner radius approved by the Cornbelt FPD and the Zoning Administrator shall verify the pavement prior to the issuance of any Zoning Compliance Certificate**

to ensure that

all homes are accessible by emergency vehicles.

- (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 backup length of 40 feet and the Zoning Administrator shall verify the pavement prior to the issuance of any Zoning Compliance Certificate**

to ensure that

all homes are accessible by emergency vehicles.

- E. Because the proposed lots are larger than five acres and because there are no new streets the proposed RRO District will not require a Plat of Subdivision and a Plat of Subdivision cannot be made a requirement. A Plat of Subdivision is where one would normally expect to find out about easements on a property and any special no-build limitations that were part of the plat approval. The following condition makes up for this lack of a plat and will serve to provide notice to prospective lot purchasers of all of the special conditions of approval:

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 Zoning District was authorized on the subject property subject to specific conditions and said Document shall contain all of the conditions of approval for Case 520-AM-05

to ensure that

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

DOCUMENTS OF RECORD

1. Petition received October 12, 2005, with attachments
2. Preliminary Memorandum dated March 24, 2006, with attachments:
 - A Zoning Case Maps (Location, Land Use, Zoning)
 - B List of Petitioner Submittals
 - C Proposed Bateman Tracts received October 12, 2005
 - C1. HDC Drainage Statement, dated October 4, 2005
 - D. Newcomb Township Special Drainage District Map
 - E Champaign County Land Use Regulatory Policies
 - F Map of Areas of Limited Groundwater Availability
 - G Natural Resource Report received November 1, 2005
 - H Copy of Agency Action Report received October 12, 2005
 - I Illinois Department of Transportation Map of Street Names
 - J Illinois Department of Transportation Map of Annual Average Daily Traffic (AADT)
 - K Excerpted worksheets from *Soil Potential Ratings For Septic Tank Absorption Fields Champaign County, Illinois*
 - L Land Evaluation and Site Assessment (LESA) System Worksheet for Subject Property
 - M Table of Common Conditions Influencing the Suitability Of Locations For Rural Residential Development In Champaign County
 - N Comparing the Proposed Site Conditions to Common Champaign County Conditions
 - O Summary of Site Comparison for Factors Relevant To Development Suitability
 - P Summary of Comparison for Factors Relevant To Compatibility with Agriculture
 - Q DRAFT Summary of Evidence (included separately)
3. Supplemental Memorandum dated March 30, 2006, with attachments:
 - A Revised Proposed Bateman Tracts received March 29, 2006
 - B Staff photos of subject property
 - C Right of way grant
 - D Revised Draft Summary of Evidence
4. Revised Land Evaluation Worksheets from the Champaign County Soil and Water Conservation District (one worksheet per proposed tract; handout at the April 13, 2006, meeting)
5. Livestock Management Facilities Within One Mile Of Proposed RRO with map (staff handout at the April 13, 2006, meeting)
6. Illinois Livestock Management Facilities Act. General Requirements Related to Size of Facility (staff handout at the April 13, 2006, meeting)

7. Supplemental Memorandum dated July 7, 2006, with attachments:
 - A Approved minutes from the April 13, 2006, ZBA meeting
 - B Minutes for the March 30, 2006, ZBA meeting (included separately)
8. Letter dated July 12, 2006, from Thomas L. Puracchio, Gas Storage Manager for the People's Gas Light and Coke Company, with attachments
 - A Easement document for subject property
 - B Plan drawing showing existing pipeline locations on the subject property
9. Revised Proposed Bateman Tracts received July 13, 2006
10. Supplemental Memorandum dated August 25, 2006
11. Supplemental Memorandum dated October 5, 2006, with attachments:
 - A Minutes for the July 13, 2006 meeting (included separately)
 - B Revised Proposed Bateman Tracts received July 13, 2006
 - C Revised Site Comparison for Factors Relevant To Development Suitability
 - D Revised Summary of Site Comparison for Factors Relevant To Development Suitability
 - E Revised Draft Summary of Evidence
12. Supplemental Memorandum dated October 12, 2006, with attachments:
 - A pp. 628 & 629 from *Architectural Graphic Standards*, Robert T. Packard, AIA, ed.; John Wiley & Sons, Seventh Edition, 1981.
 - B Excerpt of Peoples Gas map of Manlover Gas Storage Field & Bateman Property Development received July 13, 2006 (included separately)
 - C Revised Proposed Bateman Tracts received October 12, 2006 (included separately)
 - D Revised Proposed Bateman Tracts received October 12, 2006 (with indication of Potential Impact Radius) (included separately)
 - E Revised Site Comparison for Factors Relevant To Development Suitability
 - F Revised Summary of Site Comparison for Factors Relevant To Development Suitability
 - G Excerpts from Title 49 of the Code of Federal Regulations
13. Supplemental Memorandum dated December 8, 2006
14. Supplemental Memorandum dated December 14, 2006, with attachments:
 - A Revised Proposed Bateman Tracts received December 14, 2006
 - B Letter from Bob Bidner received December 12, 2006
 - C ANNOTATED APPROVED Summary of Evidence dated October 12, 2006
15. Revised site plan received December 14, 2006, as revised at the public hearing

FINDING OF FACT

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;** the Zoning Board of Appeals of Champaign County finds that: **and December 14, 2006,**

1. The proposed site **SUBJECT TO CONDITIONS, IS SUITABLE** for the development of **TWO** residences because:
 - A. **the site has more or less typical Champaign County conditions due to manmade hazards and safety concerns; and**
 - B. **much better than typical and nearly ideal conditions for the other considerations of adequacy of roads; effects on drainage; septic suitability; LESA score; and flood hazard status, and the availability of water is more or less typical; and**
 - C. **the property is between 4 and 5 miles from the Cornbelt Fire Protection District; and**and despite:
 - D. **the fact that there are high pressure gas pipelines in the vicinity; and**
 - E. **the site has much worse than typical Champaign County conditions because it is bordered on one side by livestock management facilities; and**
 - F. **emergency services vehicle access is limited by flooding.**
2. Development of the proposed site under the proposed Rural Residential Overlay development **SUBJECT TO CONDITIONS, WILL BE COMPATIBLE** with surrounding agriculture because:
 - A. **surface drainage that is much better than typical; and**
 - B. **the condition to provide an easement for the drainage district tile; and**
 - C. **the adequacy of the roads that is nearly ideal Champaign County conditions; and**
 - D. **traffic generated by the proposed RRO District that will be only 100% more than without the RRO;**and despite:
 - E. **the presence of adjacent livestock management facilities on one side and four other livestock management facilities within a one-mile radius of the property for a total of three active facilities that are by law allowed to expand up to 1,000 animal units; and**
 - F. **the presence of a drainage district tile near the proposed RRO District.**

FINAL DETERMINATION

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Map Amendment requested in Case **520-AM-05**, **SHOULD BE ENACTED** by the County Board **SUBJECT TO THE FOLLOWING CONDITIONS:**

- A. **Prospective lot purchasers shall be made aware of the presence of the Manlove Gas Storage Facility on the property and the presence of related high pressure gas pipelines on the property and the related gas injection wells on adjacent property to ensure that as much as possible, all prospective lot purchasers have full knowledge of the Manlove Gas Storage Facility prior to purchase of a lot.**
- B. **Prospective lot purchasers shall be made aware of the presence of easements for Peoples Gas Light and Coke Company as originally granted on November 30, 1965, and recorded at pages 71 and 72 in Book 809 of the Office of the Champaign County Recorder of Deeds; and all said easements shall be specifically mentioned in any deed for any lot in the Rural Residential Overlay District in Zoning Case 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 that as much as possible, all prospective lot purchasers and lot owners have full knowledge of these easements before and after purchase.**
- C. **Prospective lot purchasers shall be made aware that noise is caused by gas venting that occurs at gas injection wells in the vicinity of the property at anytime of the day or night and without prior warning to ensure that as much as possible, all prospective lot owners have full knowledge of the gas venting and resultant noise prior to purchase of a lot.**
- D. **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 without prior written approval of the Newcomb Special Drainage District to ensure that 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.**

- E. Any underground drainage tile that must be relocated to accommodate any construction in the proposed Rural Residential Overlay Zoning District shall be replaced and relocated in conformance with the Champaign County Stormwater Management Policy to ensure that the existing agricultural 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.**
- F. All driveway entrance widths shall be 30 feet wide with a radius as approved by both the Newcomb Township Highway Commissioner and the Cornbelt Fire Protection District and evidence of both approvals shall be submitted to the Zoning Administrator prior to the issuance of any Zoning Compliance Certificate to ensure that emergency services vehicles have adequate access to all properties.**
- G. All homes shall be served by driveways that have a paved surface consisting of at least six inches of rock that is at least 20 feet wide and a corner radius approved by the Cornbelt FPD and the Zoning Administrator shall verify the pavement prior to the issuance of any Zoning Compliance Certificate to ensure that all homes are accessible by emergency vehicles.**
- H. 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 backup length of 40 feet and the Zoning Administrator shall verify the pavement prior to the issuance of any Zoning Compliance Certificate to ensure that all homes are accessible by emergency vehicles.**
- I. 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 Zoning District was authorized on the subject property subject to specific conditions and said Document shall contain all of the conditions of approval for Case 520-AM-05 to ensure that prospective lot purchasers are aware of all of the conditions relevant to approval of the Rural Residential Overlay District on the subject property.**

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Debra Griest, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date:

Champaign
County
Department of



Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
FAX (217) 328-2426

To: **Environment and Land Use Committee**
From: **John Hall, Zoning Administrator**
Date: **September 6, 2007**
RE: **Case 542-AM-06 Rural Residential Overlay Map Amendment for proposed 8 lot RRO**

Zoning Case 542-AM-06

Request: **Amend the Zoning Map to allow for the development of 8 single-family residential lots in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.**

Petitioners: **Louis and Jo Ann Wozniak**

Location: **A 57.64 acre tract of land located in the East ½ of the Southwest ¼ of Section 22 of Newcomb Township and located on the west side of Illinois Route 47 and between CR 2600N and CR 2650N.**

STATUS

This case was before the Committee on March 12, 2007, at which time it was deferred to allow time for a Zoning Ordinance text amendment related to land use compatibility near pipelines. There has not yet been a public hearing on that text amendment.

At this time the amendment will not be before the Committee before the regularly scheduled meeting on December 10, 2007, meeting. This case could be deferred to that date or the Committee could take action based on the ZBA recommendation that was reviewed in the February 7, 2007, memo (see attached).

ATTACHMENTS

A ELUC Memorandum of February 7, 2007 (includes all previous ELUC memoranda on this case)

Champaign
County
Department of



Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
FAX (217) 328-2426

To: **Environment and Land Use Committee**
From: **John Hall, Zoning Administrator**
Date: **February 6, 2007**
RE: **Case 542-AM-06 Rural Residential Overlay Map Amendment for proposed 8 lot RRO**

Zoning Case 542-AM-06

Request: **Amend the Zoning Map to allow for the development of 8 single-family residential lots in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay (RRO) Zoning District.**

Petitioners: **Louis and Jo Ann Wozniak**

Location: **A 57.64 acre tract of land located in the East ½ of the Southwest ¼ of Section 22 of Newcomb Township and located on the west side of Illinois Route 47 and between CR 2600N and CR 2650N.**

STATUS

The Zoning Board of Appeals voted to “RECOMMEND DENIAL” of this proposed Rural Residential Overlay (RRO) rezoning at their February 1, 2007, meeting. Relevant maps have been excerpted from the Documents of Record and are attached. The Summary of Evidence is attached and includes relevant testimony from the public hearing. The ZBA is required to make two specific findings for RRO determinations and those findings are reproduced below in this memorandum and also appear in the Finding of Fact.

This is the second RRO to be proposed in the vicinity of the underground Manlove Gas Storage Facility. See item 17 on pages 15 through 21 of the Summary of Evidence. Safety concerns related to high pressure gas pipelines that are part of that facility are prominent in the ZBAs finding that the location is not suitable for development. See the Required Finding below.

The site plan originally proposed 34 building lots but over the course of the public hearing the Revised Concept Plan was reduced to only 11 total lots of which three lots could done “by right” without RRO approval.

No frontage protests have been received from neighboring landowners against the proposed rezoning. The subject property is not located within any municipal or village extraterritorial jurisdiction so there can be no municipal or village protest. Newcomb Township has a Plan Commission but the township has provided no communication regarding the proposed map amendment.

REQUIRED FINDINGS

With respect to map amendments requesting creation of a Rural Residential Overlay (RRO) Zoning District, Section 5.4.3 of the Zoning Ordinance requires the ZBA to make two specific findings before forwarding a recommendation to the County Board. The required findings are stated as follows in the Ordinance:

1. **That the proposed site is or is not suitable for the development of the specified maximum number of residences; and**

2. That the proposed residential development will or will not be compatible with surrounding agriculture.

The Land Use Regulatory Policies that were adopted on November 20, 2001, establish requirements for RROs proposed on "best prime farmland" that the land be "well suited" and that the land be used in the "most efficient way". The proposed RRO is not on best prime farmland so the higher requirements do not apply. The required findings on page 31 of the attached Final Determination have been reproduced below with references to the relevant items in the Summary of Evidence.

Required Finding 1. Regarding Whether the Site is Suitable for the Development of the Specified Maximum Number of Residences:

1. The proposed site **IS NOT SUITED** for the development of **8** residences because:

of the presence of nearby man-made hazards which are high-pressure gas pipelines and gas injection wells that take up a significant portion of five of the lots (see items 17. B., C, D, E, F*) and which outweighs other features related to development suitability which are nearly ideal such as flood hazard status and environmental considerations (see items 16 and 21*) and features which are much better than typical such as road safety, septic suitability, effects of nearby farms, LESA score, and (see items 22, 11, 13, 18, and 19*)

and despite:

a condition that the homes are required to be built outside of the Potential Impact Radius of the high pressure gas pipelines and injection wells (see item 24. A.(3)).

* refers to items in the Summary of Evidence

NOTE: This is not the actual finding. See the Approved Finding of Fact.

PROPOSED CONDITIONS

The ZBA approved several conditions to address safety concerns related to the high pressure gas pipelines; the presence of drainage district tile; probable flooding caused by the public road culvert; driveways and mailboxes; and the fact that the lots are not part of a Plat of Subdivision. The conditions are listed under item 24 of the Summary of Evidence. The ZBA determined that even with the conditions the location was not suitable for the proposed residences and was not compatible with surrounding agriculture.

Required Finding 2. Whether the Proposed Residential Development Will or Will Not Be Compatible with Surrounding Agriculture:

2. Development of the proposed site under the proposed Rural Residential Overlay development **WILL NOT BE COMPATIBLE** with surrounding agriculture because:

A. **the impact on drainage is not known especially in regards to upstream landowners because of the uncertainty of the replacement of all underground tile (see item 12*); and**

B. **the less reliable tile maintenance that will result under the proposed development (see item 12*);**

and despite:

C. **the requirements of the Stormwater Management Policy (see items 9.C. and 24.B. *); and**

D. **the LE rating of 82 which is much better than typical for Champaign County (see items 10. and 19.*).**

* refers to items in the Summary of Evidence

NOTE: This is not the actual finding. See the As-Approved Finding of Fact.

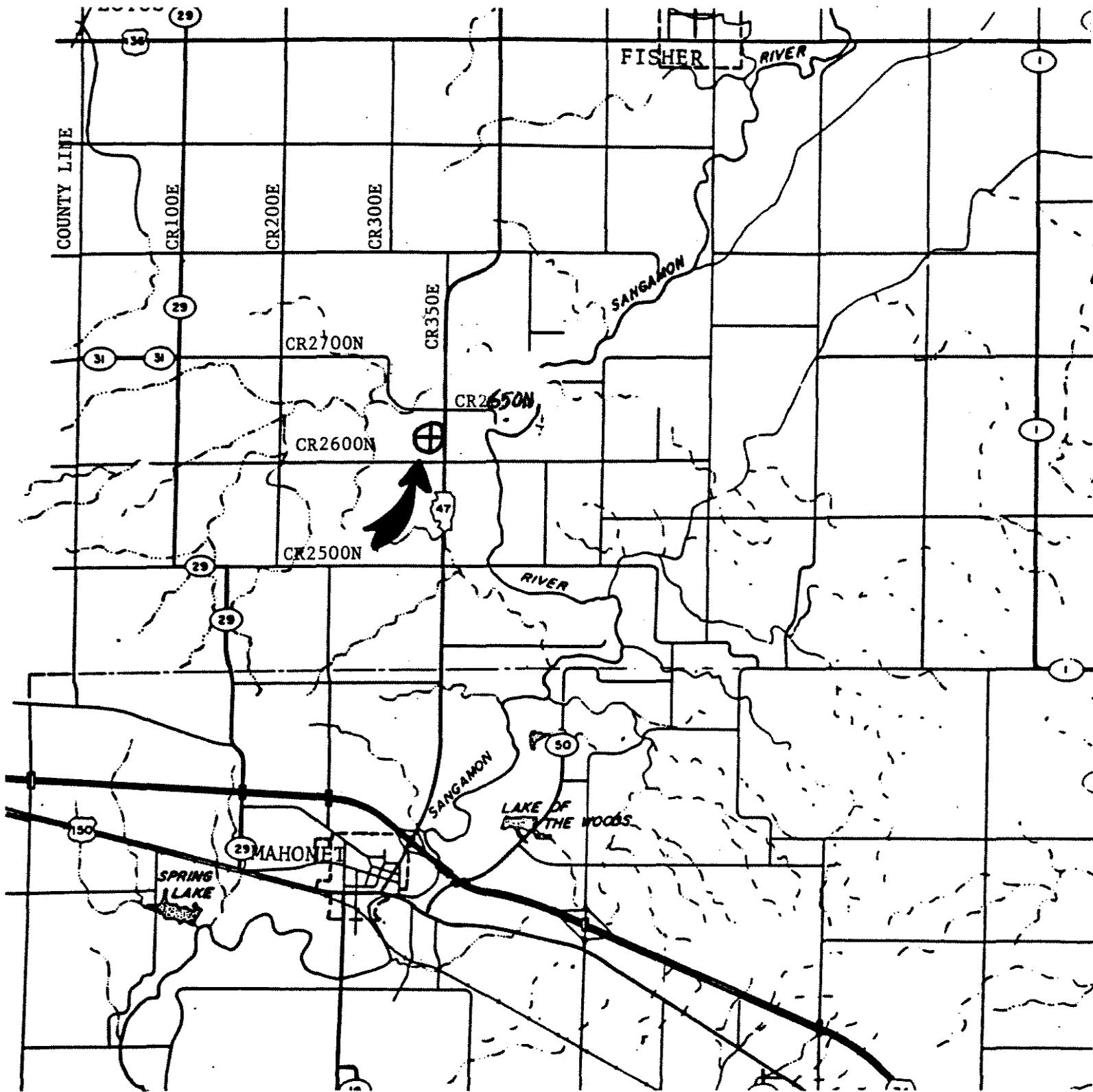
ATTACHMENTS (excerpted from the Documents of Record)

- A Zoning Case Maps (Location, Land Use, Zoning)
- B Revised Concept Plan of Shiloh Swale Subdivision received on August 14, 2006, with RRO lots identified
- C Summary of Evidence, Finding of Fact, and Final Determination of the Champaign County Zoning Board of Appeals as approved on February 1, 2007 (UNSIGNED)

ATTACHMENT A. LOCATION MAP

Case 542-AM-06

JULY 7, 2006

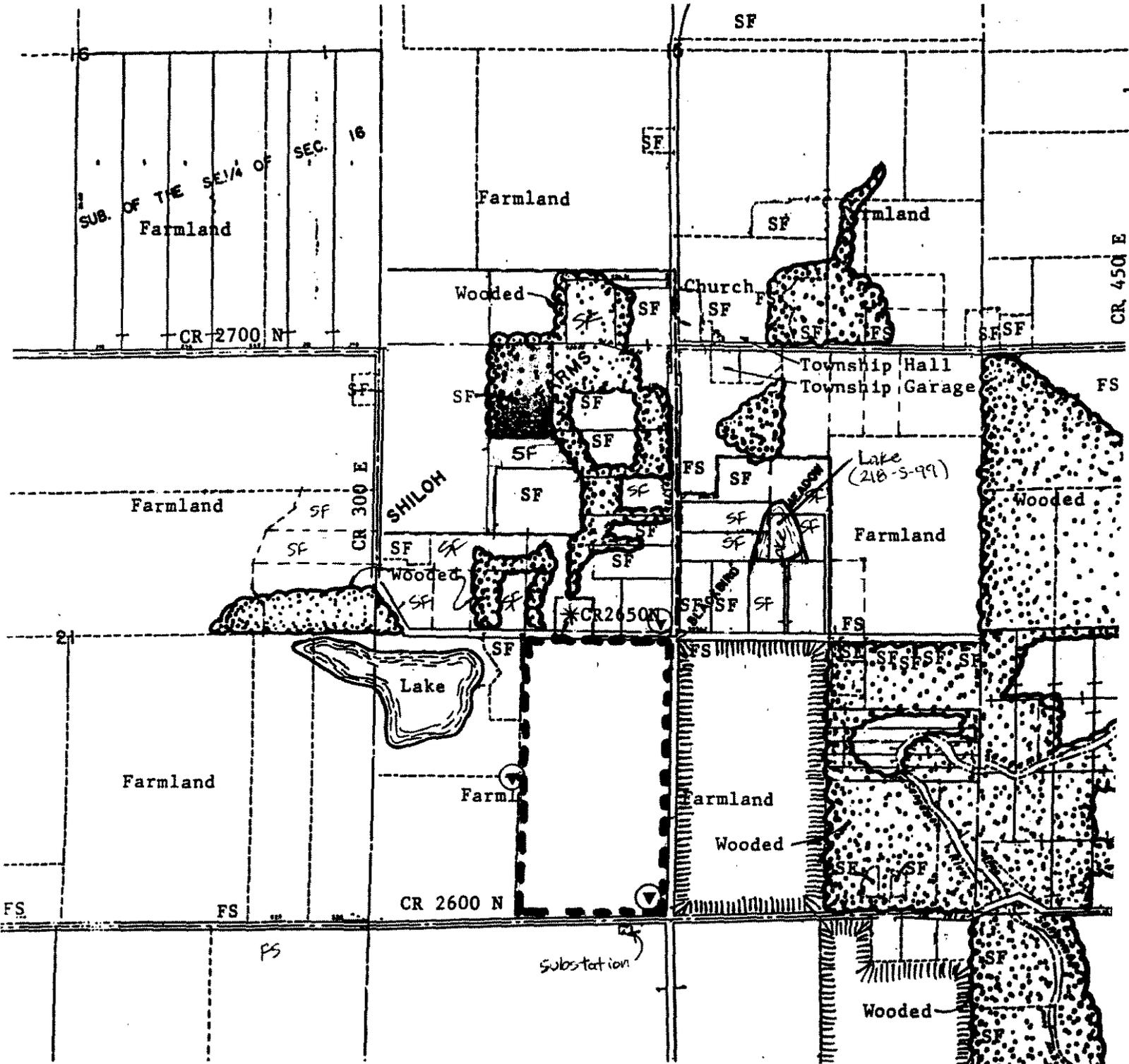


Champaign
County
Department of
**PLANNING &
ZONING**



NORTH

ATTACHMENT A. LAND USE
Case 542-AM-06
 AUGUST 31, 2006



* SHILOH CEMETERY (388-S-03)

⊙ GAS INJECTION WELL



Area of Concern



LIVESTOCK MANAGEMENT FACILITY



Single Family



Farmstead



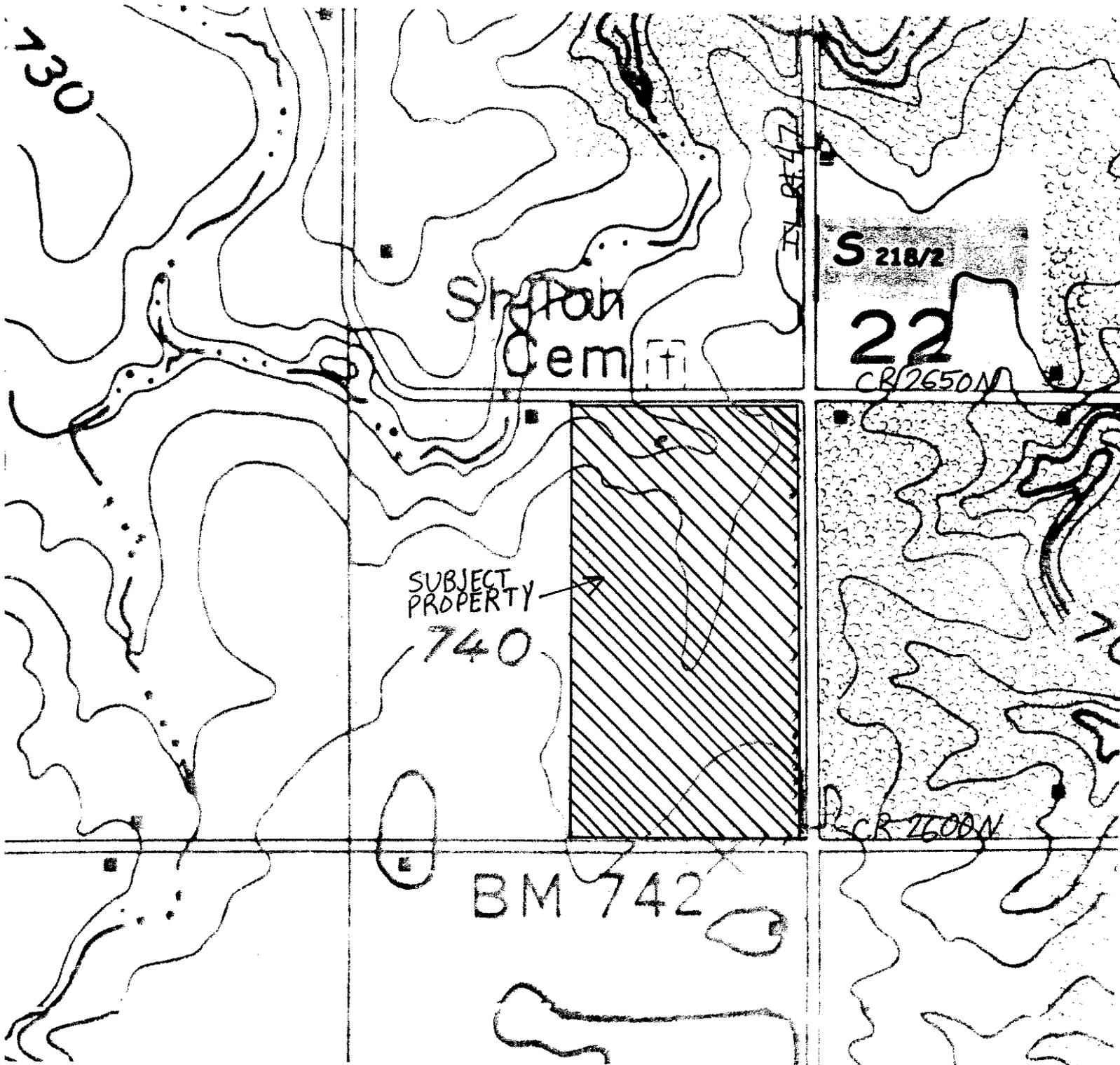
NORTH

Champaign
 County
 Department of
**PLANNING &
 ZONING**

ATTACHMENT A. ZONING MAP

Case 542-AM-06

JULY 7, 2006



AG-1 Agriculture	R-1 Single Family Residence	R-4 Multiple Family Res.	B-2 Neighborhood Business	B-5 Central Business	 NORTH Champaign County Department of PLANNING & ZONING
AG-2 Agriculture	R-2 Single Family Residence	R-5 Mobile Home Park	B-3 Highway Business	I-1 Light Industry	
CR Conservation- Recreation	R-3 Two-family Residence	B-1 Rural Trade Center	B-4 General Business	I-2 Heavy Industry	

AS APPROVED (RECOMMEND DENIAL)

542-AM-06

**FINDING OF FACT
AND FINAL DETERMINATION
of
Champaign County Zoning Board of Appeals**

Final Determination: ***RECOMMEND DENIAL***

Date: February 1, 2007

Petitioner: Louis and JoAnn Wozniak

Request: Amend the Zoning Map to allow for the development of 8 single family residential lots in the AG-1 Agriculture Zoning District, by adding the Rural Residential Overlay (RRO) Zoning District to an 57.64 acre tract of land located in the East ½ of the Southwest ¼ of Section 22 of Newcomb Township.

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on July 13, 2006; and August 31, 2006; and November 16, 2006; and February 1, 2007, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioners are Louis and JoAnn Wozniak, owners of the subject property.
2. The subject property is located in the East ½ of the Southwest ¼ of Section 22 of Newcomb Township, and commonly known as the field on the west side of Route 47 between CR 2650N and CR 2600N.
3. The subject property is not located within the one and a half mile extraterritorial jurisdiction of a municipality with zoning.
4. Regarding comments by petitioners, when asked on the petition what error in the present Ordinance is to be corrected by the proposed change, the petitioners indicated the following:

No error exists. Request change according to this petition.

5. Land use and zoning on the subject property and in the immediate vicinity are as follows:
 - A. The subject property is zoned AG-1 and is currently in agricultural use.
 - B. Land adjacent to and located north, west, and south of the subject property is zoned AG-1. Land to the south is used as farmland. Land to the west is used as farmland and a small lake. Land to the north is used as large lot single family residential development.

Item 5. (continued)

- C. Land adjacent to and located east of the subject property is zoned CR Conservation-Recreation and is used as farmland.

GENERALLY REGARDING THE REQUIREMENTS FOR ESTABLISHING AN RRO DISTRICT

- 6. Generally regarding relevant requirements from the *Zoning Ordinance* for establishing an RRO District:
 - A. The Rural Residential Overlay (RRO) Zoning District is an overlay zoning designation that is in addition to the pre-existing (underlying) rural zoning. An RRO is established using the basic rezoning procedure except that specific considerations are taken into account in approvals for rezoning to the RRO District.
 - B. Paragraph 5.4.3.C.1 of the *Zoning Ordinance* requires the Zoning Board of Appeals to make two specific findings for RRO approval which are the following:
 - (1) That the proposed site is or is not suitable for the development of the specified maximum number of residences; and
 - (2) That the proposed residential development will or will not be compatible with surrounding agriculture.
 - C. Paragraph 5.4.3 C.1 of the *Zoning Ordinance* requires the Zoning Board of Appeals to consider the following factors in making the required findings:
 - (1) Adequacy and safety of roads providing access to the site;
 - (2) Effects on drainage both upstream and downstream;
 - (3) The suitability of the site for onsite wastewater systems;
 - (4) The availability of water supply to the site;
 - (5) The availability of emergency services to the site;
 - (6) The flood hazard status of the site;
 - (7) Effects on wetlands, historic or archeological sites, natural or scenic areas or wildlife habitat;
 - (8) The presence of nearby natural or man-made hazards;
 - (9) Effects on nearby farmland and farm operations;
 - (10) Effects of nearby farm operations on the proposed residential development;

Item 6.C. (continued)

- (11) The amount of land to be converted from agricultural uses versus the number of dwelling units to be accommodated;
- (12) The Land Evaluation and Site Assessment (LESA) score of the subject site;

GENERALLY REGARDING CHAMPAIGN COUNTY LAND USE POLICIES

- 7. The Land Use Goals and Policies were adopted on November 29, 1977, and were the only guidance for County Map Amendments until the Land Use Regulatory Policies-Rural Districts (LURP) were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review (CZR). The LURP's were amended September 22, 2005, but the amendment contradicts the current Zoning Ordinance and cannot be used in concert with the current Zoning Ordinance. The LURP's adopted on November 20, 2001, remain the relevant LURP's for discretionary approvals (such as map amendments) under the current Zoning Ordinance. Land Use Regulatory Policy 0.1.1 gives the Land Use Regulatory Policies dominance over the earlier Land Use Goals and Policies. LURP's that are relevant to any proposed RRO District are the following:
 - A. Land Use Regulatory Policy 1.1 provides that commercial agriculture is the highest and best use of land in the areas of Champaign County that are by virtue of topography, soil and drainage, suited to its pursuit. Other land uses can be accommodated in those areas provided that:
 - (1) the conversion of prime farmland is minimized;
 - (2) the disturbance of natural areas is minimized;
 - (3) the sites are suitable for the proposed use;
 - (4) infrastructure and public services are adequate for the proposed use;
 - (5) the potential for conflicts with agriculture is minimized.
 - B. Land Use Regulatory Policy 1.2 states that on the best prime farmland, development will be permitted only if the land is well suited to it, and the land is used in the most efficient way consistent with other County policies.
 - C. Land Use Regulatory Policy 1.3.3 provides that development beyond the basic development right will be permitted if the use, design, site and location are consistent with County policy regarding:
 - (1) the efficient use of prime farmland;
 - (2) minimizing the disturbance of natural areas;
 - (3) suitability of the site for the proposed use;
 - (4) adequacy of infrastructure and public services for the proposed use; and

Item 7.C. (continued)

- (5) minimizing conflict with agriculture.
- D. Land Use Regulatory Policy 1.4.2 states that non-agricultural land uses will not be permitted if they would interfere with farm operations or would damage or negatively effect the operation of agricultural drainage systems, rural roads or other agriculture related infrastructure.
- E. Land Use Regulatory Policy 1.5.3 states that development will not be permitted if existing infrastructure, together with proposed improvements, is inadequate to support the proposed development effectively and safely without undue public expense.
- F. Land Use Regulatory Policy 1.5.4 states that development will not be permitted if the available public services are inadequate to support the proposed development effectively and safely without undue public expense.

GENERALLY REGARDING THE MAXIMUM ALTERNATIVE DEVELOPMENT WITHOUT AN RRO

- 8. Regarding the maximum number of new zoning lots that could be created out of the subject property without the authorization for the RRO Zoning District:
 - A. As amended on February 19, 2004, by Ordinance No. 710 (Case 431-AT-03 Part A), the *Zoning Ordinance* requires establishment of an RRO District for subdivisions with more than three lots (whether at one time or in separate divisions) less than 35 acres in area each (from a property larger than 50 acres) and/or subdivisions with new streets in the AG-1, AG-2, and CR districts (the rural districts) except that parcels between 25 and 50 acres may be divided into four parcels.
 - B. There can be no more than three new lots smaller than 35 acres in area that can be created from this 81.5 acre subject property without authorization for the RRO Zoning District. The number of 35 acre lots that could also be created depends upon the how the smaller lots are created. It is reasonable to assume that the smaller lots would not be created by a Plat of Subdivision that needs County approval. However, this tract has been this size and shape since before 1959 and two lots that are each less than five acres in area could be created without a Plat of Subdivision and the third smaller lot could be no larger than five acres which means that the three small lots could be created and take up no more than 10 acres of the property thereby leaving enough land for two 35 acre lots for a total of five RRO exempt lots.

GENERALLY REGARDING THE PROPOSED RRO DISTRICT

- 9. The proposed RRO lots meet or exceed the minimum lot standards in the Zoning Ordinance. The proposed Concept Plan has been subject to one revision, as follows:

Item 9. (continued)

- A. The original Concept Plan was received on February 16, 2006, and described the following:
- (1) There were 34 buildable lots and three outlots proposed. The buildable lots ranged in size from 1.3 acres to 2.8 acres; the average lot area after subtracting rights-of-way is 1.886 acres.
 - (2) A 30 foot wide pipeline easement was indicated along the entire perimeter of the proposed subdivision, this area was also marked as a bike and walking path.
 - (3) The proposed subdivision could be accessed from CR 2600N and CR 2650N with one access road connecting both entrances. Three cul-de-sacs branched off from the local access road.
 - (4) The drainage from the swale that runs through the middle of the subject property was proposed to be carried in roadside ditches and one of the outlots was a stormwater detention pond.
- B. The revised Concept Plan was received on August 14, 2006, and described the following:
- (1) There are 11 buildable lots and no outlots proposed. Since the subject property can be divided into as many as three lots by right, the proposed RRO is for only 8 lots. Mr. Wozniak testified at the August 31, 2006, public hearing that he is asking for an 8 lot RRO but the 81.5 acres will have 11 lots in total because three of the lots are “by-right”.
 - (2) The 11 new lots will range in size from 5.25 acres to 10.3 acres; the average lot area is 7.28 acres.
 - (3) Each lot provides adequate area for a home to be built outside the People’s Gas 90 foot pipeline easement, and outside the potential impact radius of the adjacent high pressure gas pipeline (see item 17).
 - (4) There are no new roads proposed in the revised Concept Plan, but there are seven new driveways accessing the roads around the subject property as follows:
 - (a) Along the north side of the property there are two entrances that access CR 2650N: one for Lot 1 and a shared entrance for both Lots 10 and 11.
 - (b) Along the east side of the property there are two entrances that access IL Rt. 47, one is shared between Lots 2 and 3, and the other is shared between Lots 4 and 5.
 - (c) Along the south side of the property there are three entrances that access CR 2600N: a shared entrance for Lots 8 and 9; a single entrance for Lot 7; and a single entrance for Lot 6.
 - (5) In the revised plan the swale is proposed to be protected by means of an easement 80 feet wide.

AS APPROVED (RECOMMEND DENIAL)

Item 9. B.(continued)

- (6) At the February 1, 2007, public hearing the petitioner indicated that the proposed RRO District would consist of lots 1, 2, 3, 4, 5, 6, 10, and 11 on the revised Concept Plan was received on August 14, 2006, and lots 7, 8, and 9 are the RRO exempt lots.
- C. Compliance with County land use regulations is as follows:
- (1) All of the lots in the requested RRO District meet or exceed all of the minimum lot standards in the *Zoning Ordinance*.
 - (2) Because the new lots in the proposed RRO District are larger than 5 acres and no new streets are proposed the subject property will not be subject to the provisions of the *Subdivision Regulations*.
 - (3) Regarding the *Stormwater Management Policy*, there is not clear conformance to paragraphs 7.2C and 7.2D.
 - (4) The subject property is not located within Zone A on the Flood Insurance Rate Map, therefore it is not subject to any of the provisions of the *Special Flood Hazard Areas Ordinance*

GENERALLY REGARDING THE SOILS ON THE PROPERTY

10. A Section 22 Natural Resource Report was prepared for the entire 81.5 acre property by the Champaign County Soil and Water Conservation District, which discusses the types of soils and other site characteristics, as follows:
 - A. Regarding the soils on the subject property, their extents, and their relative values:
 - (1) Approximately 45.4 acres of the subject property consists of soils considered Best Prime Farmland and consists of the following:
 - (a) Ashkum silty clay loam, 0 to 2% slopes (map unit 232A), makes up about 52% (about 42.5 acres) of the subject property; and
 - (b) Raub silt loam, 0 to 2% slopes (map unit 481A), makes up about 2.2% (about 1.8 acres) of the subject property; and
 - (c) Drummer silty clay loam, 0 to 2% slopes (map unit 152A), makes up about 1.3% (about 1.1 acres) of the subject property.
 - (2) The remainder of the property consists of a soil from Agriculture Value Group 5, Elliott silty clay loam, 4 to 6% slopes (map unit 146C2), which makes up 44.4% (about 36.2 acres) of the subject property.
 - B. The subject property is not Best Prime Farmland under the Champaign County Land Use Regulatory Policies, as follows:

Item 10.B. (continued)

- (1) Best Prime Farmland is identified by the Champaign County Land Use Regulatory Policies – Rural Districts as amended on November 20, 2001, as any tract on which the soil has an average Land Evaluation Factor of 85 or greater using relative values and procedures specified in the *Champaign County, Illinois Land Evaluation and Site Assessment System*.
 - (2) The Land Evaluation Worksheet in the Natural Resource Report indicates the overall Land Evaluation factor for the soils on the subject property is only 83.
- C. Site specific concerns stated in the Section 22 report are the following:
- (1) The area that is to be developed has 2 soil types that have severe wetness characteristics and 2 that have severe ponding characteristics. This will be especially important for the septic systems that are planned.
 - (2) The property has a waterway running from south to north that drains land to the southwest that will need to be maintained. The placement of lots will make this difficult based on the existing plat.

GENERALLY REGARDING THE ADEQUACY AND SAFETY OF ROADS

11. Regarding the adequacy and safety of roads providing access to the proposed RRO District:
 - A. The Institute of Transportation Engineers publishes guidelines for estimating of trip generation from various types of land uses in the reference handbook *Trip Generation*. Various statistical averages are reported for single family detached housing in *Trip Generation* and the average “weekday” traffic generation rate per dwelling unit is 9.55 average vehicle trip ends per dwelling unit. *Trip Generation* does not report any trip generation results for rural residential development.
 - B. The Staff report *Locational Considerations for Rural Residential Development in Champaign County, Illinois* that led to the development of the RRO Amendment, incorporated an assumed rate of 10 average daily vehicle trip ends (ADT) per dwelling unit for rural residences. The assumption that each proposed dwelling is the source of 10 ADT is a standard assumption in the analysis of any proposed RRO.
 - C. Based on the standard assumption that each proposed dwelling is the source of 10 ADT, the 8 new residences are estimated to account for an increase of approximately 80 ADT in total. The maximum traffic increase on each road bordering the subject property is as follows
 - (1) CR 2650N has three lots proposed to access it, which would be an increase of 30 ADT, and two driveways.
 - (2) IL Rte. 47 has four lots proposed to access it, which would be an increase of 40 ADT, and four driveways centralized at two locations.

Item 11.C. (continued)

- (3) CR 2600N has four lots proposed to access it but three are RRO exempt which would be an increase of 10 ADT and one driveway.
- D. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* are general design guidelines for local road construction using Motor Fuel Tax funding and relate traffic volume to recommended pavement width, shoulder width, and other design considerations. The *Manual* indicates the following pavement widths for the following traffic volumes measured in Average Daily Traffic (ADT):
- (1) A local road with a pavement width of 16 feet has a recommended maximum ADT of no more than 150 vehicle trips.
 - (2) A local road with a pavement width of 18 feet has a recommended maximum ADT of no more than 250 vehicle trips.
 - (3) A local road with a pavement width of 20 feet has a recommended maximum ADT between 250 and 400 vehicle trips.
 - (4) A local road with a pavement width of 22 feet has a recommended maximum ADT of more than 400 vehicle trips.
- E. The Illinois Department of Transportation's *Manual of Administrative Policies of the Bureau of Local Roads and Streets* general design guidelines also recommends that local roads with an ADT of 400 vehicle trips or less have a minimum shoulder width of two feet.
- F. The Illinois Department of Transportation measures traffic on various roads throughout the County and determines the annual average 24-hour traffic volume for those roads and reports it as Annual Average Daily Traffic (AADT). the most recent (2001) AADT data in the vicinity of the subject property are as follows:
- (1) CR 2650N on the north side of the subject property had an AADT for 2001 of 25.
 - (2) There is no reported AADT for CR 2600N on the south side of the subject property.
 - (3) IL Rt. 47 on the west side of the subject property had an AADT for 2001 of 3650. The traffic assumed to be generated by the proposed RRO is approximately 2.2% of the 2001 AADT.
- G. The relevant geometric standards for visibility are found in the *Manual of Administrative Policies of the Bureau of Local Roads and Streets* prepared by the Bureau of Local Roads and Streets of the Illinois Department of Transportation. Concerns are principally related to "minimum stopping sight distance". Design speed determines what the recommended distance is. In regards to the proposed RRO there are no concerns related to stopping sight distance.

Item 11. (continued)

- H. At the July 13, 2006 ZBA meeting, Doug Emkes testified that the impact of 35 to 70 people on CR 2600N and 2650N could be severe if people don't want to travel on Rte. 47 with it being so busy. He also testified that two years ago there was an accident in the area when a woman got hit pulling out of her driveway.
- I. Overall, the subject property and proposed RRO are comparable to "much better than typical" conditions for Champaign County in terms of common conditions for the adequacy and safety of roads providing access because access is from a Township Highway and is adjacent to IL 47 so any deficiencies are minor.

GENERALLY REGARDING DRAINAGE

- 12. Regarding the effects of the proposed RRO District on drainage both upstream and downstream:
 - A. The engineer's explanation of general drainage conditions is the letter of May 27, 2004, from the Petitioner and Harry G. Wenzel, P.E. which can be summarized as follows (evidence that is no longer relevant to the revised Concept Plan received Aug. 14, 2006, is so indicated):
 - (1) The site slopes generally northward. It is mostly agricultural, except for the 90 foot wide swale running generally through the center of the subject property.
 - (2) The swale drains from south to north carrying drainage from farmland south of it and itself to the northwest corner; through two culverts under CR 2650N to a natural ditch; and then north to a Sangamon River tributary. There are no roadside ditches involved in drainage from this property.
 - (3) Two areas of significant ponding are indicated with one in the southeast corner of the subject property and one in the northeast corner.
 - (4) The proposed subdivision's internal road ditches, where feasible, will maintain current drainage flow. Minor surface recontouring would assure continual flow and correct ponding problems. (Not relevant to the revised Concept Plan received on Aug. 14, 2006)
 - (5) Stormwater detention is not required due to the low percent of impervious area.
 - (6) When completed the extensive grass covering the new development will filter runoff better than the single swale
 - B. The concept plan received on May 31, 2006 indicates topographic contours at five foot intervals. Review of these contours indicates the following:
 - (1) Ground slope varies between 0.7% and approximately 4%, but there may be small areas with less ground slope. The Champaign County Zoning Ordinance does not contain minimum acceptable ground slope but 1% is normally considered a minimum desirable ground slope for residential development.

AS APPROVED (RECOMMEND DENIAL)

Item 12.B. (continued)

- (2) Existing surface drainage for the subject property is via a natural drainage swale that drains towards the northwest corner of the subject property. The drainageway is indicated on the Surface Water Flow illustration in the Natural Resource Report prepared by the Champaign County Soil and Water Conservation District. Under the revised Concept Plan the natural drainage swale is preserved by means of an 80 foot easement.

Paragraph 7.1 B. of the Champaign County Stormwater Management Policy requires that natural drainageways be incorporated into any drainage system.

- C. At the July 13, 2006 ZBA meeting the following testimony was given regarding local drainage conditions:
 - (1) Doug Emkes testified that he has ground saturation problems on the land he owns and most of it drains to the east, and Frank Kamerer's land drains to the west. He also testified that the tile on the subject property is 8 to 10 inches.
 - (2) Dave Nelson, 2659 CR 350E, Mahomet, testified that his property adjoins the creek downstream and there was no concern shown for the downstream impact of the development regarding environmental effects or erosion. He said that the creek does flood and the creek bed does overflow and get as high as four or five feet, which is why he is concerned about erosion, and he is concerned about erosion in the creek on the backside of his property.
 - (3) Tom Knuth, 336 CR 2650N, testified that he has a drainage ditch that runs along the west side of his property and circles around the north end of his property and he was informed that a few years ago half of his back yard was under water. He has concerns about where that drainage is going to go if there is extra drainage from the subject property.
- D. Mr. Kevan Parrett, who resides at 180 CR 2400N, Mahomet testified at the August 31, 2006, meeting as follows:
 - (1) He is a farmer in the area where the proposed development is to be located and he is representing Keith Hazen, who is the manager of the Hazen Farm and Trust. He said that the Hazen farmground is located directly south of the Wozniak property on CR 2600N.
 - (2) He said that the Hazen ground has approximately 60 acres which drains through the swale and it is his assumption that there is tile on the Hazen land which is connected to the tile which runs under the Wozniak property. He said that the revised plan causes the Hazen estate concern regarding drainage. He said that it appears that Mr. Wozniak is trying to address the drainage issues by informing the lot purchaser about the existing tiles but there is concern about conveying this information to future owners. He said that Mr. Wozniak discussed an easement but it is his understanding that this is a private tile

Item 12.D. (continued)

therefore there would be no need for an easement because each landowner would be responsible for their tile for surface drainage. He said he would like to know what mechanism would be used for future landowners of the development in regard to the tile.

- F. Overall, the subject property and proposed RRO are comparable to “typical” conditions for Champaign County in terms of common conditions for the drainage effects on properties located both upstream and downstream because of the following:
- (1) All of the soils on the subject property are “wet” soils.
 - (2) There is good surface drainage with adequate outlets and the property does not drain over adjacent land.

GENERALLY REGARDING SUITABILITY OF THE SITE FOR ONSITE WASTEWATER SYSTEMS

13. Regarding the suitability of the site for onsite wastewater systems:

- A. A soil percolation test of the subject property was performed by the Petitioner and submitted on June 27, 2006 and the results were as follows:
- (1) Tests were made on: March 24, 2006 and June 26, 2006 at three different locations:
 - (a) Location 1 is in the southwest corner of the subject property, which is an area of Ashkum soil (map unit 232A).
 - (b) Location 2 is in the northeast corner of the subject property, which is an area of Elliott soil (map unit 146C2)
 - (c) Location 3 is in the southeast corner of the subject property, which is an area of Drummer soil (map unit 152A)
 - (2) Findings reported from the test were as follows:
 - (a) The test was for the purpose of assessing septic field tile absorption adequacy. Location 3 was chosen as the benchmark location because it yielded the worst possible absorbency. The early March date was chosen as the benchmark date for the same reason.
 - (b) In order to pass the percolation test water must be absorbed at an average rate of not less than 1 inch per hour for the last 6 inches above the water table. Location 3 at the March testing date just met the 1 inch per hour criterion, taking a full 6 hours for the last 6 inches of water to be absorbed. All other tests on the subject property exceeded the 1 inch per hour criterion.
 - (c) The only mention of observed groundwater levels appears to be that groundwater was observed at a depth of 27 inches in the March, 2006, test. Groundwater is not mentioned in the other tests.

AS APPROVED (RECOMMEND DENIAL)

Item 13.A. (continued)

- (d) The Petitioner asserts that based on the percolation test results the soil of the site will support septic field absorption requirements.
- B. The pamphlet *Soil Potential Ratings for Septic Tank Absorption Fields Champaign County, Illinois*, is a report that indicates the relative potential of the various soils in Champaign County for use with subsurface soil absorption wastewater systems (septic tank leach fields). The pamphlet contains worksheets for 60 different soils that have potential ratings (indices) that range from 103 (very highest suitability) to 3 (the lowest suitability). The worksheets for the soil types on the subject property can be summarized as follows:
- (1) Elliott silt loam (map unit 146B) has a medium suitability for septic tank leach fields with a soil potential index of 79. Elliott has severe wetness problems due to both low permeability and a high groundwater level (1 to 3 feet below the surface of the ground). The typical corrective measures are fill or subsurface drainage improvements (underground drain tiles or curtain drains) to lower the groundwater level. Elliott soil makes up about 44.4% (about 36.2 acres) of the subject property and is likely to make up a significant portion of all proposed lots except Lot 7.
 - (2) Ashkum silty clay loam (map unit 232A) has a low suitability for septic tank leach fields with a soil potential index of 49. Ashkum has severe ponding problems due to low permeability, severe flooding, and a high groundwater level similar to Drummer soil (one-half foot above to 2 feet below the surface of the ground). The typical corrective measures are fill, a large absorption field, or subsurface drainage improvements (underground drain tiles or curtain drains) to lower the groundwater level. Ashkum soil makes up about 52% (about 42.5 acres) of the subject property and is likely to make up a significant portion of all proposed lots
 - (3) Raub silt loam (map unit 481A) has a medium suitability for septic tank leach fields with a soil potential index of 79. Raub has severe wetness problems due to low permeability and a high groundwater level (1 to 3 feet below the surface of the ground). The typical corrective measures are fill, a large absorption field, or subsurface drainage improvements (underground drain tiles or curtain drains) to lower the groundwater level. Raub soil makes up about 2.2% (about 1.8 acres) of the subject property and all Raub soil is located outside the buildable area on Lot 7.
 - (4) Drummer silt loam (map unit 152A) has a low suitability for septic tank leach fields with a soil potential index of 53. Drummer has severe wetness problems due to low permeability and a high groundwater level. The typical corrective measures are fill, a large absorption field, or subsurface drainage improvements (underground drain tiles or curtain drains) to lower the groundwater level. Drummer soil makes up about 1.3% (about 1.1 acres) of the subject property and all Drummer soil is outside the buildable area on Lot 6.

Item 13.B. (continued)

- (5) Overall septic suitability of the soils on the proposed RRO District can be summarized as follows:
- (a) Approximately 56.3% of the proposed RRO District consists of soils that have a medium suitability for septic tank leach fields due to a high groundwater level and low permeability.
 - (b) Approximately 43.7% of the proposed RRO District consists of soils that have a low suitability for septic tank leach fields due to severe wetness problems due to flooding and a high groundwater level as well as low permeability.
 - (c) All the soils on the subject property have severe problems of one sort or another when considering septic suitability. Curtain drains will be required for all the proposed lots to lower the water table to allow onsite septic systems to function properly. All proposed lots, in the revised site plan, have a significant area of Elliot soil that could be used as a location for the septic system, except Lot 7.
 - (d) According to the percolation tests performed on the subject property the permeability of the soils will not be a problem; however, high water tables, as shown by the ponding that continues to occur on the subject property will be a problem without the installation of curtain drains to lower the water table in absorption fields.
- C. Under the revised Concept Plan the natural drainage swale is preserved by means of an 80 foot easement.
- D. The wetness of the soils as indicated by the Champaign County Soil Survey indicates that basements and crawl spaces in the proposed development can be expected to be wet unless provided with sump pumps to lower the groundwater level. Sump pumps would produce “dry weather flows” of groundwater that need to be accommodated by some means other than discharge to the swale or hooking into agricultural drainage tile. The very low overall density resulting from the large average lot area of 7.2 acres in the revised Concept Plan may mitigate the concerns related to wetness of the soils on the subject property.
- E. At the July 13, 2006 ZBA meeting Dave Nelson, 2659 CR 350E, Mahomet, testified that the petitioner’s perc tests need to be reviewed because the area has been in drought conditions and the perc tests should be performed in normal conditions. He also testified that after living out there for ten years he has seen some problems with septic systems that his neighbors have been able to work out, but this will be a different situation. He said that finding someone to service these systems and maintain them for you is not as easy as one might think because of proprietary rights.

Item 13. (continued)

- F. Overall, the subject property and proposed RRO are comparable to “much better than typical” conditions for Champaign County in terms of common conditions for the suitability for onsite wastewater systems because about 56% of the soils in the proposed RRO District have medium septic suitability compared to the approximately 51% of the entire County that has a Low Potential but all soils should be considered wet until better information is provided.

GENERALLY REGARDING THE AVAILABILITY OF GROUNDWATER AT THE SITE

- 14. Regarding the availability of water supply to the site:
 - A. The Staff report *Locational Considerations and Issues for Rural Residential Development in Champaign County, Illinois* included a map generally indicating the composite thickness of water bearing sand deposits in Champaign County. The map was an adaptation of a figure prepared by the Illinois State Geological Survey for the Landfill Site Identification Study for Champaign County. A copy of the map from the Staff report was included as an attachment to the Preliminary Memorandum and indicates that the subject property is not within the area of limited groundwater availability.
 - B. Overall, the subject property and proposed RRO are comparable to “typical” conditions for Champaign County in terms of common conditions for the availability of water supply because there is reasonable confidence of water availability; and there is no reason to suspect impact on neighboring wells.

GENERALLY REGARDING THE AVAILABILITY OF EMERGENCY SERVICES TO THE SITE

- 15. Regarding the availability of emergency services to the site:
 - A. The subject property is located approximately 4.5 miles from the Cornbelt Fire Protection District station on Main Street in Mahomet; the approximate travel time is 7 minutes. The Fire District Chief has been notified of this request for rezoning.
 - B. At the July 13, 2006 ZBA meeting, the petitioner, Louis Wozniak, testified that, the Cornbelt Fire Protection District has an agreement with the Sangamon Valley Fire Protection District, and therefore, this property has two responding stations.
 - C. Overall, the subject property and proposed RRO are comparable to “typical” conditions for Champaign County in terms of common conditions for the availability of emergency services because the site is between four and five road miles from the Cornbelt fire station.

GENERALLY REGARDING FLOOD HAZARD AND OTHER NATURAL OR MANMADE HAZARDS

- 16. Regarding the flood hazard status of the site; pursuant to Federal Emergency Management Agency Panel No. 170894-0100 none of the subject property is located within the Special Flood Hazard Area.

17. Regarding the presence of nearby natural or man-made hazards; there are several natural gas line hazards near the subject property, and a 14 acre lake as follows:
- A. Gas pipeline easements are mentioned in the Open Title Policy submitted by the petitioner. Natural gas pipelines for the Manlove Gas Storage facility run along the east, and south sides of the subject property. There are also natural gas injection wells for the Manlove Gas Storage facility at the northeast and southeast corners of the subject property as well as one at the midpoint of the west boundary.
 - B. Minimum safety requirements for gas pipelines are included under Title 49 of the Code of Federal Regulations (CFR), Part 192 that establishes the following:
 - (1) Potential impact radius (PIR) is defined by 49 CFR 192.03 as the radius of a circle within which the potential failure of a gas pipeline could have significant impact on people or property. PIR is determined by the formula $r=0.69*\sqrt{(p*d^2)}$, where r' is the radius of a circular area in feet surrounding the point of pipeline failure, p' is the maximum allowable operating pressure (MAOP) in the pipeline segment in pounds per square inch and d' is the nominal diameter of the pipeline in inches.
 - (2) Class location is based upon population density using a standard class location unit that is defined by 49 CFR 192.5 as an onshore area that extends 220 yards on either side of the centerline of any continuous one mile length of pipeline. Defined class locations are the following:
 - (a) Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.
 - (b) A Class 1 location is any class location unit that has 10 or fewer buildings intended for human occupancy
 - (c) A Class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy.
 - (d) A Class 3 location is any class location unit that has more than 46 buildings intended for human occupancy; or anywhere a pipeline lies within 100 yards (91 meters) of an identified site, which is either a building or a small, well-defined outside area (such as a playground, recreation area, outside theater, or other place of public assembly) that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12 month period. (The days and weeks need not be consecutive.)
 - (e) A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

Item 17.B. (continued)

- (3) Class location may change as a result of development within 220 yards of a pipeline and whenever an increase in population density indicates a change in class location for a segment of pipeline operating at a hoop stress not commensurate with that class location the pipeline operator must within 24 months of the change in class location make a study as outlined in 49 CFR 192.609 and reduce the operating pressure of the pipeline in the covered segment to that allowed by 49 CFR 192.611.
 - (4) A high consequence area is undefined but is apparently an area where population density is great enough that the consequences in terms of impact on people or property from an undesired event are so great that a pipeline operator is required to develop and follow a written integrity management plan for all pipeline segments within high consequence areas. High consequence areas are classified as the following:
 - (a) An area defined as either a Class 3 or 4 location under 49 CFR 192.5; or any area in a Class 1 or 2 location where the potential impact radius is greater than 660 feet (200 meters), and the area within a potential impact circle contains 20 or more buildings intended for human occupancy; or any area in a Class 1 or 2 location where the potential impact circle contains an identified site, which is either an outdoor area like a playground or other public gathering area; or a building such as a church, public meeting hall, or other public gathering place.
 - (b) Or the area within a potential impact circle containing 20 or more buildings intended for human occupancy; or an identified site.
- C. Regarding specific safety considerations related to the high pressure gas pipelines near the subject property:
- (1) The area around the subject property is classified under 14 CFR 192 as follows:
 - (a) The high pressure natural gas pipeline that follows the south and east lot lines of the subject property is apparently a Class 1 location.
 - (b) The high pressure natural gas pipeline and injection well that sits at the midpoint of the west lot line of the subject property is apparently a Class 1 location.
 - (c) There are also no high consequence areas on or near the subject property.
 - (2) In a letter dated July 7, 2006, and in testimony at the July 13, 2006, meeting Thomas L. Purrachio, Gas Storage Manager for The Peoples Gas Light and Coke Company testified as follows:
 - (a) Peoples' has three pipelines along the east and south lot lines of the subject property, including, an alcohol line, a water line, and a high pressure natural gas line, with a 30 foot easement for each and a total easement width of 90 feet.

Item 17.C.(2)(a) (continued)

Along the north lot line of the subject property Peoples' has only a water line and only a 30 foot easement. Along the west line of the subject property the only easement Peoples' has is a 90 foot circular easement area surrounding the injection well placed at the midpoint of the west lot line. These easements give Peoples' the right to lay any additional lines they find "necessary or desirable" and when they install these new lines their overall easement expands by an appropriate dimension described in the easement document. They are limited, however, to place their lines within 50 feet of a section line, a quarter section line, a highway right-of-way line, or an established fence line.

- (b) The conceptual, preliminary, and final plats of subdivision should show the pipeline easement areas consistent with the 1965 easement document and any zoning approval should delineate maximum permissible building areas and expressly prohibit any construction of principal or accessory buildings anywhere outside the maximum permissible building areas. The majority of pipeline incidents nationwide are the result of third-party damage and the likelihood of third-party damage naturally increases with population density.
- (c) The gas pipelines on the east and south sides of the property are nominal 12 inch diameter (12.75 inch actual outside diameter) with a maximum operating pressure of 2,000 pounds per square inch (PSI) and are located approximately three to five feet below grade. Similar pipelines service the adjacent gas injection wells. This results in a potential impact radius of 393 feet which is much greater than the potential impact radius for gas lines at 30 or 40 or 60 or 150 PSI that might be in normal subdivisions.
- (d) Peoples Gas has not asked the Board to prohibit building within the red zone on the map of Manlove Storage Area and Shiloh Swale Subdivision that is attached to the letter dated July 7, 2006, but the red zone is indicated to educate the Board and the public about requirements of the pipeline safety code.
- (e) Peoples Gas has an outstanding safety record and endeavors to meet or exceed all pipeline safety regulations but the 393 feet of potential impact radius is a fair approximation of the pipeline and well rupture that occurred in 1998. In that event the wind was blowing from the southwest to the northeast and the farm ground was scorched for quite a distance to the northeast and one should not expect a pipeline rupture to go straight up, depending upon the weather.
- (f) The pipeline in the ground at the subject property already meets the more stringent requirement of a Class 2 area and Peoples Gas would not have to replace the existing pipelines if the subdivision were built as proposed.

AS APPROVED (RECOMMEND DENIAL)

Item 17.C.(2) (continued)

- (g) Although not a safety issue, on occasion maintenance activities require venting of gas at any time of day or night without notice to adjacent property owners that might result in noise for a few hours.
- (3) In testimony at the July 13, 2006 meeting the petitioner, Louis Wozniak, testified as follows:
 - (a) The easement document does not state where the easements are and all of the pipelines are within 30 or 40 feet of Route 47.
 - (b) The easement was granted in 1965 and renewed in 1980 and the easement has not been renewed since and are the easements still there.
 - (4) In testimony at the July 13, 2006, meeting Frank Kamerer, 2648 CR350E testified as follows:
 - (a) As people have moved to smaller lots in this area some of them have built houses almost on top of the gas pipeline.
 - (b) He was up there when a joint blew out of a gas pipeline and it put a hole in the ground so big you could put a bus in it.
 - (c) Peoples' replaced three quarters of a mile of gas pipeline on his property last year.
 - (d) These pipelines are man made and some day they are going to fail, but Peoples' has done a good job so far.
 - (5) In testimony at the July 13, 2006, meeting Dave Nelson, 2659 CR 350E, Mahomet, testified as follows:
 - (a) He was present during the pipeline and well rupture event in 1998 and his house was one mile away from where the event occurred, and it sounded like a jet was landing on Rte. 47. He said the staging area for the Cornbelt Fire Department was at the Shiloh Methodist Church and they could not go any closer until Peoples' shut down the gas line. He tried to film the incident but he could not get his camera to focus on the flames until they had died down significantly.
 - (b) He said Peoples' Gas are great neighbors and they try to keep the gas line safe.
 - (6) In testimony at the August 31, 2006 meeting the petitioner, Louis Wozniak, testified as follows:
 - (a) He said that if the July 13, 2006, minutes are reviewed Mr. Puracchio states that, "clearly the regulations do not in any way require that building not be allowed within the zone and that's not the intent of the code and that's not what he is trying to tell the Board...".

Item 17.C.(2)(6) (continued)

- (b) His easement contract clearly holds People's Gas responsible for any damage that occurs from installation and operation of the gas pipeline.
 - (c) He said that Mr. Puracchio stated that the pipeline was designed to handle 2,000 pounds per square inch (PSI) but they only operate at approximately 1750 pounds per square inch. Mr. Wozniak stated that operating at 250 PSI less than design means that the approximate 400 feet changes, depending upon what pressure is used, and the design is merely a safety factor which makes the pipeline stronger. He said that the "flashing red light" zone should be on the operating pressure and not the design pressure.
 - (d) He said that when an injection well is near a home People's Gas installs a fence around the injection well but as the photographs, attached to the distributed memorandum, indicate a child can crawl under the fence therefore ignoring safety. He said that there are approximately 90 wells in the area which include unlocked doors for easy access to valves and levers which regulate the gas. He said that on July 24, 2006, he contacted the ICC in Springfield regarding his concerns and on August 10, 2006, he met with Mr. Rex Evans, manager of pipeline safety at the Illinois Commerce Commission, and Mr. Puracchio at one of the wells. He said that during the meeting at the injection well his intention was to show Mr. Evans how easily the valves could be accessed and manipulated. He said that Mr. Puracchio admitted that the valves are sometimes faulty and could be manipulated and that the doors were left unlocked. He said that hopefully the County Board would approve a resolution which would require the gas companies to secure the valves so that they cannot be accessed. He said that you cannot fight stupidity but you can design around it.
- (7) In testimony at the July 13, 2006, meeting Thomas L. Puracchio, Gas Storage Manager for The Peoples Gas Light and Coke Company testified as follows:
- (a) He said that they do feel that they do have a very strong safety record.
 - (b) When he and Mr. Wozniak met with Mr. Rex Evans, who is the manager of pipeline safety at the Illinois Commerce Commission at the well site Mr. Evans stated that People's Gas was in compliance with all applicable pipeline safety regulations and codes.

Item 17. (continued)

- D. Regarding different results of the Potential Impact Radius formula depending upon the values used in the formula:
- (1) If the actual outside diameter of the pipeline (12.75 inches) is used with the maximum allowable operating pressure (2,000 psi), the result is 393 feet. However, if the nominal diameter of the pipeline (12 inches) is used with the maximum allowable operating pressure (2,000 psi), the result is 373 feet. The Potential Impact Radius is between 393 feet and 373 feet depending upon which pipeline diameter is used.
 - (2) If the actual outside diameter of the pipeline (12.75 inches) is used with the approximate normal allowable operating pressure (1,700 psi), the result is 363 feet. If the nominal diameter of the pipeline (12 inches) is used with the approximate normal operating pressure (1,700 psi), the result is 341 feet. This is not the Potential Impact Radius as defined by Title 49, Part 192 of the Code of Federal Regulations but may be useful in a zoning context.
- E. The revised concept plan received on August 14, 2006, indicates the following in regards to pipeline safety:
- (1) The proposed RRO will affect the current class locations as follows:
 - (a) The high pressure natural gas pipeline that follows the south and east lot lines of the subject property will take on four to eight new buildings intended for human occupancy, most likely raising it to a Class 2 location.
 - (b) The high pressure natural gas pipeline and injection well that sits at the midpoint of west lot line of the subject property will take on four new buildings intended for human occupancy, but remain a Class 1 location.
 - (c) The proposed RRO will not create any high consequence areas.
 - (2) There is a non-buildable area approximately 400 feet deep that runs along the east and south lot lines of the subject property, and another non-buildable, semi-circular area 400 feet in radius at the midpoint of the west lot line of the subject property.
 - (3) There are no easements indicated for either pipeline area.
- F. At the July 13, 2006 ZBA meeting Doug Emkes testified that he owned a 14 acre lake which would be an attractive hazard for young boys living in the proposed RRO and that he would like some kind of fence between his property and the proposed subdivision.

Item 17. (continued)

- G. Overall, the subject property and proposed RRO are comparable to “much worse than typical” conditions for Champaign County in terms of common conditions for the presence of nearby natural or manmade hazards because there are gas lines on the north, east and south sides and a gas well on the west side.

GENERALLY REGARDING COMPATIBILITY WITH SURROUNDING AGRICULTURE AND THE EFFECTS OF NEARBY FARM OPERATIONS ON THE DEVELOPMENT

- 18. Regarding the likely effects of nearby farm operations on the proposed development:
 - A. Rough analysis of land use within a one-half mile radius of the subject property indicates the following:
 - (1) Row crop production agriculture occupies more than half of the land area within the immediate vicinity of the proposed RRO District and occurs on about one-half of the perimeter of the proposed RRO. Illinois Route 47 on the east side provides some separation from the farmland to the east.
 - (2) Row crop production produces noise, dust and odors that homeowners sometimes find objectionable. Farm operations may begin early and continue until well after dark exacerbating the impact of noise related to field work.
 - (3) There are two known livestock management facility within one mile of the subject property. One livestock management facility is located directly east of the subject property and across Ill. Rte. 47 and the other livestock management facility is located about one quarter mile southeast of the subject property. The proposed RRO District is upwind of both livestock facilities and the prevailing wind may help mitigate any odors associated with livestock facilities.
 - B. Overall, the subject property and proposed RRO are comparable to “much better than typical” conditions for Champaign County in terms of common conditions for the effects of nearby farmland operations on the proposed development.

GENERALLY REGARDING THE LESA SCORE

- 19. Regarding the LESA score of the proposed RRO District:
 - A. The Champaign County, Illinois LESA system is a method of evaluating the viability of farmland for agricultural uses. The LESA system results in a score consisting of a Land Evaluation portion and a Site Assessment portion. The score indicates the degree of protection for agricultural uses on that particular site and the degrees of protection are as follows:
 - (1) An overall score of 220 to 300 indicates a very high rating for protection of agriculture.
 - (2) An overall score of 200 to 219 indicates a high rating for protection of agriculture.
 - (3) An overall score of 180 to 199 indicates a moderate rating for protection of agriculture.

AS APPROVED (RECOMMEND DENIAL)

Item 19.A. (continued)

- (4) An overall score of 179 or lower indicates a low rating for protection of agriculture.
 - (5) For comparison purposes, development on prime farmland soils but in close proximity to built up areas and urban services typically has scores between 180 and 200.
- B. The LESA worksheets are an attachment to the Preliminary Memorandum. The component and total scores are as follows:
- (1) The Land Evaluation component rating for the proposed RRO District is 82.
 - (2) The Site Assessment component rating for the proposed RRO District is 120 to 130 depending upon the compatibility with nearby agriculture.
 - (3) The total LESA score is 202 to 212 and indicates a High rating for protection of agriculture.
- C. Overall, the subject property and proposed RRO are comparable to “much better than typical” conditions for Champaign County in terms of common conditions for the LESA score because the LE score is 82. The Site Assessment score is 120 to 130 for a total score of 202 to 212.

GENERALLY REGARDING THE EFFICIENT USE OF BEST PRIME FARMLAND

20. The subject property is not best prime farmland on average.

GENERALLY REGARDING THE EFFECTS ON WETLANDS, ARCHAEOLOGICAL SITES, AND NATURAL AREAS

21. Regarding the effects on wetlands, endangered species, and natural areas:

- A. An application to the Illinois Department of Natural Resources (IDNR) for endangered species consultation was made on March 8, 2006, and a reply was received on March 31, 2006. The letter reply indicated that initial report from IDNR showed the presence of protected resources on the subject property, but concluded that adverse impacts to those resources are unlikely. The only protected resource listed as part of the reply was the Sangamon River INAI Site.
- B. Regarding the effects on archaeological resources:
 - (1) The subject property is within the area with a high probability of archaeological resources, which required a Phase 1 Archaeological Reconnaissance Survey.
 - (2) A Phase 1 survey of the subject property was completed by Dr. Brian Adams of the Public Service Archaeology Program of the Department of Anthropology of the University of Illinois at Urbana-Champaign. The survey found no archaeological material and recommended project clearance.

Item 21. (continued)

- C. The subject property is currently farmed and so contains no significant wildlife habitat.
- D. Overall, the subject property and proposed RRO are comparable to “nearly ideal” conditions for Champaign County in terms of common conditions for the effect on wetlands, historic, or archaeological sites, natural or scenic areas, and/or wildlife habitat because there are no negative effects on any of the aforementioned areas.

GENERALLY REGARDING OVERALL SUITABILITY OF THE SITE FOR RURAL RESIDENTIAL DEVELOPMENT

- 22. Compared to “common conditions” found at rural sites in Champaign County, the subject property is similar to the following:
 - A. “Ideal or Nearly Ideal” conditions for two factors (flood hazard status and environmental concerns)
 - B. “Much Better Than Typical” conditions for four factors (road safety; effects of farms; LESA score, and septic suitability) and
 - C. “More or Less Typical” conditions for three factors (availability of water; emergency services; drainage).
 - D. “Much Worse Than Typical” conditions for one factor (other hazards)

GENERALLY REGARDING COMPATIBILITY WITH SURROUNDING AGRICULTURE AND THE EFFECTS OF THE DEVELOPMENT ON NEARBY FARM OPERATIONS

- 23. Regarding the likely effects of the proposed development on nearby farm operations:
 - A. The surrounding land use on about two-thirds of the perimeter of the proposed RRO is agricultural farmland. Direct interactions between the proposed development and nearby farmland are likely to include the following:
 - (1) The added traffic from the proposed development will increase the conflicts with movement of farm vehicles. Given the close proximity of the proposed subdivision to Illinois Route 47 this concern should be minimal.

The 11 single-family dwellings that will result from the proposed RRO (including three by-right) will generate 120% more traffic than the non-RRO alternative development of only 5 homes.
 - (2) Trespassing onto adjacent fields possible resulting into damage to crops or to the land itself.

The 11 single-family dwellings that will result from the proposed RRO (including three by-right) will generate 120% more trespass than the non-RRO alternative development of only 5 homes.

Item 23.A. (continued)

- (3) Blowing litter into the adjacent crops make agricultural operations more difficult.

The 11 single-family dwellings that will result from the proposed RRO (including three by-right) will generate 120% more blowing litter than the non-RRO alternative development of only 5 homes.

- (4) Discharge of “dry weather flows” of stormwater or ground water (such as from a sump pump) can make agricultural operations more difficult. This type of drainage concern is not likely to affect any farmland adjacent to the proposed development.
- (5) If trees are planted close to the perimeter of the property, they can be expected to interfere with some farming operations (such as harvesting) and may contribute to blockage of underground tiles (if any exist). Perimeter fencing, if installed, could also interfere with farming operations.

This concern may be reduced for the subject property given the small amount of adjacent farmland.

B. The indirect effects are not as evident as the direct effects:

- (1) A potential primary indirect effect of non-farm development on adjacent farmers (as identified in *Locational Considerations and Issues for Rural Subdivisions in Champaign County*) is that potential nuisance complaints from non-farm neighbors about farming activities can create a hostile environment for farmers particularly for livestock management operations.
- (2) Champaign County has passed a “right to farm” resolution that addresses public nuisance complaints against farm activities. The resolution exempts agricultural operations from the Public Nuisance Ordinance (except for junk equipment) but does not prevent private law suits from being filed.
- (3) The State of Illinois Livestock Management Facilities Act (510ILCS 77) governs where larger livestock facilities (those with more than 50 animal units, which is equivalent to 125 hogs) can be located in relation to non-farm residences and public assembly uses (churches, for example). The separation distances between larger livestock facilities and non-farm residences is based on the number of animal units occupying the livestock facility and the number of non-farm residences in the vicinity. There are two known livestock management facility within the vicinity of the subject property.

Item 23.B.(3) (continued)

- (a) Regarding the livestock management facility in the southeast corner of the intersection of CR 2650N and Rte. 47;
 - i. There are already several nonfarm residences within one-quarter mile of the facility; and
 - ii. The facility is already within one-half mile of a populated area containing 10 or more nonfarm dwellings; and
 - iii. The proposed RRO District will not change any requirement for this facility under the Illinois Livestock Management Facilities Act (510 ILCS 77/et seq); and
 - iv. The proposed RRO District is located upwind from the facility, which will help mitigate any odors, but there may be complaints from the proposed 8 lots.

- (b) Regarding the livestock management facility located on the east side of Ill. Rte. 47 and between CR 2600N and CR 2500N;
 - i. There are already several nonfarm residences within one-quarter mile of the facility; and
 - ii. The facility is already within one-half mile of a populated area containing 10 or more nonfarm dwellings; and
 - iii. The proposed RRO District will not change any requirement for this facility under the Illinois Livestock Management Facilities Act (510 ILCS 77/et seq); and
 - iv. The proposed RRO District is located more or less upwind from the facility and the prevailing wind may help mitigate any odors but there may be complaints from the proposed 8 lots.

24. Regarding possible special conditions of approval:

- A. Regarding the presence of the Manlove Gas Storage Facility on the subject property and the related high pressure gas pipelines on the property and related gas injection wells on adjacent property:
 - (1) Prospective lot purchasers should be aware that the property is part of the Manlove Gas Storage Facility and the following condition will provide that notice:

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

AS APPROVED (RECOMMEND DENIAL)

Item 24.A.(1) (continued)

to ensure that

as much as possible, all prospective lot purchasers have full knowledge of the Manlove Gas Storage Facility prior to purchase of a lot.

- (2) Prospective lot purchasers should be made aware of the existing easements for Peoples Gas Light and Coke Company. Such notice would generally be given in a Plat of Subdivision but because the proposed lots are larger than five acres and because there are no new streets, a Plat of Subdivision cannot be required. The following condition will provide notice of the easements:

Prospective lot purchasers shall be made aware of the presence of easements for Peoples Gas Light and Coke Company as originally granted on October 14, 1965, and recorded at pages 95 and 96 in Book 805 of the Office of the Champaign County Recorder of Deeds; and all said easements shall be specifically mentioned in any deed for any lot in the Rural Residential Overlay District in Zoning Case 542-AM-06; 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 that

as much as possible, all prospective lot purchasers and lot owners have full knowledge of these easements before and after purchase.

- (3) Home construction should be restricted such that no dwelling can be built within the potential impact radius. This is a zoning regulation that will apply only to this RRO District and prospective lot purchasers should be made aware of these limits before they purchase a lot. Note that the potential impact radius is measured from the pipeline but the exact location of the pipeline is not known but the pipelines should be within 50 feet of the adjacent right of way. The following condition will provide notice of these restrictions and includes 50 feet (to provide for all possible pipeline locations) in addition to the 393 feet potential impact radius:

No dwelling shall be constructed closer than 443 feet to the right of way of Illinois Route 47 nor closer than 443 feet to the right of way of CR2600N nor closer than 443 feet to any gas injection well in the vicinity

to ensure that

as much as possible, all new dwellings are outside of the potential impact radius for any gas pipeline failure that might occur.

Item 24.A. (continued)

- (4) Prospective lot purchasers should be made aware that gas venting occurs at injection wells at anytime of the day or night and without prior warning and results in significant noise and the following condition will provide that notice:

Prospective lot purchasers shall be made aware that noise is caused by gas venting that occurs at gas injection wells in the vicinity of the property at anytime of the day or night and without prior warning

to ensure that

as much as possible, all prospective lot owners have full knowledge of the gas venting and resultant noise prior to purchase of a lot.

B. Regarding compliance with the Champaign County Stormwater Management Policy:

- (1) Paragraph 7.2 B. of the Champaign County Stormwater Management Policy requires that if no easement exists for existing agricultural drainage tile an easement shall be granted for access and maintenance. There is no easement for the underground agricultural drainage tile in the swale and the following condition would document this requirement:

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 a prohibition on planting of woody vegetation

to ensure that

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.

- (2) Paragraph 7.2 C. of the Champaign County Stormwater Management Policy request that all agricultural drainage tile located underneath areas that will be developed shall be replaced with non-perforated conduit to prevent root blockage provided that drainage district tile may remain with the approval of the drainage district. The tile in the swale is not drainage district tile and should be replaced by the petitioner unless authorized to remain by variance. The following condition would provide for either situation (replacement or a variance):

AS APPROVED (RECOMMEND DENIAL)

Item 24.B.(2) (continued)

Prior to offering any lots for sale the petitioner shall replace the underground drainage tile in the swale and any lateral drainage tile on the property 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 that

the existing agricultural 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.

- (3) Even if the petitioner replaces the tile in the swale there may be other tile that must be replaced by lot owners if disturbed during construction and the following condition will provide notice of that requirement:

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

to ensure that

the existing agricultural 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.

- C. The following special conditions will minimize the encroachment of driveways and mailboxes in the proposed RRO District into the right of way:

- (1) **All lots that have centralized driveways shall also have grouped mail boxes located as far off the roadway as permitted by the United States Postal Service and evidence of the mail box installation and location shall be submitted to the Zoning Administrator prior to the issuance of any Zoning Compliance Certificate**

to ensure that

mail boxes do not unnecessarily impede agricultural traffic.

- (2) **All driveway entrance widths shall be 30 feet wide with a radius as approved by both the Newcomb Township Highway Commissioner and the Cornbelt Fire Protection District and evidence of both approvals shall be submitted to the Zoning Administrator prior to the issuance of any Zoning Compliance Certificate**

Item 24.C. (continued)

to ensure that

emergency services vehicles have adequate access to all properties.

D. The following special conditions will ensure that the homes built outside of the Potential Impact Radius of the high pressure gas pipelines are accessible by emergency vehicles:

- (1) **All homes shall be served by driveways that have a paved surface consisting of at least six inches of rock that is at least 20 feet wide and the Zoning Administrator shall verify the pavement prior to the issuance of any Zoning Compliance Certificate**

to ensure that

all homes are accessible by emergency vehicles.

- (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 backup length of 40 feet and the Zoning Administrator shall verify the pavement prior to the issuance of any Zoning Compliance Certificate**

to ensure that

all homes are accessible by emergency vehicles.

E. Because the proposed lots are larger than five acres and because there are no new streets the proposed RRO District will not require a Plat of Subdivision and a Plat of Subdivision cannot be made a requirement. A Plat of Subdivision is where one would normally expect to find out about easements on a property and any special no-build limitations that were part of the plat approval. The following condition makes up for this lack of a plat and will serve to provide notice to prospective lot purchasers of all of the special conditions of approval:

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 Zoning District was authorized on the subject property subject to specific conditions and said Document shall contain all of the conditions of approval for Case 542-AM-06

to ensure that

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

DOCUMENTS OF RECORD

1. Application, received February 16, 2006, with attachments:
 - A Discussion of RRO factors
 - B Section 22 Natural Resource Report from CCSWCD
 - C IDNR Report
 - D Phase I Archaeological Reconnaissance Survey (abridged)
 - E Newcomb Township Buried Gas Lines Map
 - F Code of Federal Regulations on Pipeline and Hazardous Materials Safety
 - G Schematic of Proposed Subdivision
 - H Copy of Title Policy
 - I Phase I Archaeological Reconnaissance Survey (full text)
 - J Professional Engineer report
 - K March 24, 2006 – June 26, 2006 Percolation Tests

2. Preliminary Memorandum with attachments:
 - A Case Maps (Location, Land Use, Zoning)
 - B Table of Petitioner Submittals
 - C Concept Plan of Shiloh Swale Subdivision received on 5/ 31/06
 - D Professional Engineer report (with figures) received on 5/31/06
 - E Champaign County Land Use Regulatory Policies as amended 11/20/01
 - F Factors affecting suitability for RRO District Establishment received on 5/ 31/06 (petitioner's submittal)
 - G Section 22 Natural Resource Report by the Champaign County Soil and Water Conservation District
 - H IDOT maps (two at different scales)
 - I Petitioner's percolation test results
 - J Excerpted worksheets from *Soil Potential Ratings For Septic Tank Absorption Fields Champaign County, Illinois*
 - K Open Title Policy received on 5/31/06 (petitioner's submittal)
 - L Newcomb Twp. Buried Gas Lines map received on 5/ 31/06 (petitioner's submittal)
 - M Excerpt from Code of Federal Regulations received on 5/ 31/06 (petitioner's submittal)
 - N Land Evaluation and Site Assessment Worksheet
 - O Table Of Common Conditions Influencing The Suitability Of Locations For Rural Residential Development In Champaign County
 - P Comparing The Proposed Site Conditions To Common Champaign County Conditions
 - Q Summary Of Site Comparison For Factors Relevant To Development Suitability
 - R Summary Of Comparison For Factors Relevant To Compatibility With Agriculture
 - S DRAFT Summary of Evidence (included separately)

3. Letter dated July 7, 2006 from Thomas L. Puracchio, Gas Storage Manager for the People's Gas Light and Coke Company, with attachments
 - A Easement document for subject property
 - B Plan drawing showing existing pipeline locations on the subject property

4. Revised Petitioner Submittals, received on August 14, 2006
 - A Concept Plan of Shiloh Swale Subdivision
 - B Petitioner's revised Factors affecting suitability for RRO District Establishment

5. Supplemental Memorandum dated August 25, 2006 with attachments:
 - A Revised Site Plan for Shiloh Swale Subdivision, received on August 14, 2006
 - B Petitioner's revised Factors for RRO Approval, received on August 14, 2006
 - C Draft minutes for case 542-AM-05 for July 13, 2006, ZBA meeting

6. Supplemental Memorandum dated August 31, 2006, with attachments:
 - A Revised Land Use Map
 - B Revised Land Use Map Indicating Areas within 220 yards of a High Pressure Gas Pipeline
 - C Page 28 from the 2005 Champaign County Plat Book with annotations
 - D Summary of Illinois Livestock Management Facilities Act General Requirements Related to Size of Facility
 - E Excerpts from Title 49 of the Code of Federal Regulations
 - F Revised Draft Summary of Evidence

7. Supplemental Memorandum dated November 9, 2006, with attachments:
 - A Revised Concept Plan of Shiloh Swale Subdivision received on August 14, 2006
 - B Site Comparison for Factors Relevant To Development Suitability
 - C Summary of Site Comparison for Factors Relevant To Development Suitability
 - D Revised Summary Of Comparison For Factors Relevant To Compatibility With Agriculture
 - E Revised Draft Summary of Evidence

8. Handout by Louis Wozniak at the August 31, 2006, public hearing

9. Supplemental Memorandum dated January 25, 2007, with attachments:
 - A Revised Concept Plan of Shiloh Swale Subdivision received on August 14, 2006
 - B Draft minutes of hearing of August 31, 2006
 - C Site Comparison for Factors Relevant To Development Suitability
 - D Summary of Site Comparison for Factors Relevant To Development Suitability
 - E Revised Summary Of Comparison For Factors Relevant To Compatibility With Agriculture
 - F Revised Draft Summary of Evidence

AS APPROVED (RECOMMEND DENIAL)

10. Supplemental Memorandum dated February 1, 2007, with attachments:
 - A Revised Concept Plan of Shiloh Swale Subdivision received on August 14, 2006, with RRO lots identified
 - B Section 22 Natural Resource Report by the Champaign County Soil and Water Conservation District
 - C Table Of Common Conditions Influencing The Suitability Of Locations For Rural Residential Development In Champaign County
 - D REVISED Site Comparison for Factors Relevant To Development Suitability
 - E REVISED Summary of Site Comparison for Factors Relevant To Development Suitability
 - F REVISED Draft Summary of Evidence
11. Letter from Warren York of York Well Drilling dated 1/ 10/07
12. Handout from petitioner Louis Wozniak at the February 1, 2007, public hearing

FINDING OF FACT

From the Documents of Record and the testimony and exhibits received at the public hearing conducted on **July 13, 2006; and August 31, 2006; and November 16, 2006; and February 1, 2007**, the Zoning Board of Appeals of Champaign County finds that:

1. The Proposed Site is **NOT SUITED** for the development of **8** residences because:

of the presence of nearby man-made hazards which are high-pressure gas pipelines and gas injection wells that take up a significant portion of five of the lots and which outweighs other features related to development suitability which are nearly ideal such as flood hazard status and environmental considerations and features which are much better than typical such as septic suitability, effects of nearby farms, LESA score, and road safety

and despite:

a condition that the homes are required to be built outside of the Potential Impact Radius of the high pressure gas pipelines and injection wells.

2. Development of the Proposed Site under the proposed Rural Residential Overlay development **WILL NOT BE COMPATIBLE** with surrounding agriculture because:
 - A. **the impact on drainage is not known especially in regards to upstream landowners because of the uncertainty of the replacement of all underground tile; and**
 - B. **the less reliable tile maintenance that will result under the proposed development;**and despite:
 - C. **the requirements of the Stormwater Management Policy; and**
 - D. **the LE rating of 82 which is much better than typical for Champaign County.**

FINAL DETERMINATION

Pursuant to the authority granted by Section 9.2 of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Map Amendment requested in Case 542-AM-06 should **NOT BE ENACTED** by the County Board.

The foregoing is an accurate and complete record of the Findings and Determination of the Zoning Board of Appeals of Champaign County.

SIGNED:

Debra Griest, Chair
Champaign County Zoning Board of Appeals

ATTEST:

Secretary to the Zoning Board of Appeals

Date

Champaign
County
Department of



Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

(217) 384-3708
FAX (217) 328-2426

TO: **Environment and Land Use Committee**
FROM: **John Hall, Zoning Administrator**
DATE: **September 6, 2007**
RE: **Proposed burning regulations for unincorporated Champaign County**

REQUESTED ACTION

At the September meeting the Committee deferred action on a Draft amendment to add burning regulations to the Nuisance Ordinance. The proposed burning regulations were based on Title 35 of the Illinois Administrative Code that obligates the County Board to enforce open burning regulations established by the Illinois Pollution Control Board and the Illinois Environmental Protection Agency. The States Attorney has advised that the County should adopt a burning ordinance to facilitate enforcement of those regulations.

In the revised Draft, new text is indicated by underlining and text that is to be removed is indicated by strike out.

REVISED DRAFT

The Draft amendment has been revised to reflect most but not all of the various municipal burning regulations in the County. The revised Draft incorporates the prohibitions on burning of landscape waste for Champaign, Urbana, and St. Joseph.

The limitations for burning of landscape waste that apply in Fisher, Homer, Pesotum, Rantoul, Royal, Savoy, and Thomasboro have been added except for the requirement that a responsible adult be present.

The villages of Bondville, Broadlands, Foosland, Gifford, Ivesdale, Longview, and Tolono do not have burning regulations that are significantly different than what is proposed for all of the unincorporated area.

Information has not yet been received from the villages of Allerton, Ludlow, Ogden, Philo, Sadorus and Sidney more changes may be necessary.

Note that all burning must comply with the relevant fire protection district requirements.

ATTACHMENTS

A Revised Draft amendment to the Champaign County Nuisance Ordinance (strikeout version)

ATTACHMENT A.
REVISED Draft amendment to the Champaign County Nuisance Ordinance
SEPTEMBER 6, 2007

1. Add the following to subsection 2.2 Terms Defined:

AGRICULTURAL WASTE: Any refuse that is generated on a farm or ranch by crop or livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding LANDSCAPE WASTE, offal, dead animals, and MANURE. Refuse generated by a farm family as a result of domiciliary activities is DOMICILE WASTE.

DOMICILE WASTE: Any refuse generated on single-family domiciliary property as a result of domiciliary activities but not including LANDSCAPE WASTE, FOOD AND FOOD PRODUCT GARBAGE, and refuse resulting from any trade, business, industry, commercial venture, utility or service activity, and any government or institutional activity, whether or not for profit and whether a principal use or a home occupation as defined in the Champaign County Zoning Ordinance.

FOOD AND FOOD PRODUCT GARBAGE: Non-paper refuse resulting from the handling, processing, preparation, cooking, and consumption of food or food products.

IEPA: The Illinois Environmental Protection Agency.

RESTRICTED BURNING AREA: A zone extending one mile beyond the boundaries of any MUNICIPALITY having a population of 1,000 or more according to the latest federal census.

LANDSCAPE WASTE: Any vegetable or plant refuse except FOOD AND FOOD PRODUCT GARBAGE and AGRICULTURAL WASTE. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

MANURE: The fecal and urinary defecations of livestock and poultry. Manure often contains some spilled feed, bedding, or litter but is predominately manure.

MUNICIPALITY: An incorporated area meeting the definition of municipality as defined in the Illinois Municipal Code.

OPEN BURNING: The combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued by the Illinois Environmental Protection Agency.

2. Add the following to subsection 3.2 Activities and Conditions Constituting Public Nuisances:

ATTACHMENT A.
REVISED Draft amendment to the Champaign County Nuisance Ordinance
SEPTEMBER 6, 2007

- N. OPEN BURNING as follows:
- (1) OPEN BURNING of DOMICILE WASTE or LANDSCAPE WASTE that is not in conformance with all of the conditions and requirements of paragraph 3.3 F.
 - (2) OPEN BURNING that is not otherwise listed in paragraph 3.3 F.
 - (3) OPEN BURNING of MANURE.
 - (4) OPEN BURNING of LANDSCAPE WASTE when the Chair of the Champaign County Board has prohibited all open burning of LANDSCAPE WASTE in the event of emergencies which require shifting of staff priorities or conditions that may represent significant potential for fire safety issues as authorized in paragraph 4.1 D..

3. Add the following to subsection 3.3 Activities and Conditions Not Constituting Public Nuisances:

- F. OPEN BURNING provided as follows:
- (1) OPEN BURNING of DOMICILE WASTE or LANDSCAPE WASTE provided as follows:
 - (a) the burning occurs on the same premises on which the waste is generated; and
 - (b) the burning only occurs when atmospheric conditions will readily dissipate contaminants; and
 - (c) the burning does not create a visibility hazard on roadways, railroad tracks, or airfields; and
 - (d) the burning is separated from an adjacent dwelling on other property and from adjacent farm fields or pastures by an amount equal to one-half the average width of the property doing the burning but does not have to exceed 100 feet.
 - (e) the burning complies with the requirements of the relevant Fire Protection District; and
 - (f) the burning of DOMICILE WASTE is located outside of a RESTRICTED BURNING AREA; and
 - (g) the burning of LANDSCAPE WASTE shall also conform to the following additional requirements:

ATTACHMENT A.
REVISED Draft amendment to the Champaign County Nuisance Ordinance
SEPTEMBER 6, 2007

- i. the burning is located more than 1,000 feet from a municipality in which open burning of LANDSCAPE WASTE is prohibited which includes the City of Champaign; the City of Urbana; the Village of St. Joseph; and the hours between sunset and sunrise in the Villages of Fisher, Homer, Pesotum, Rantoul, Royal, Savoy, and Thomasboro; and the Village of Mahomet except between dawn to dusk on Tuesday, Friday, and Saturday; and
 - ii. the LANDSCAPE WASTE is ~~reasonably dry~~ burned so as to minimize the generation of visible air contaminants; and
 - iii. the burning shall not occur on public or private roads or rights of way, alleys, or sidewalks without the specific approval of the relevant highway authority; and
 - iv. the burning shall not create a hazard to safety for people or property as a result of wind speed being greater than 10 miles per hour or unusually dry conditions; and
 - v. ~~if the burning occurs during dry weather conditions the relevant Fire Protection District shall be contacted for recommended precautions and all the burning shall be conducted as recommended by the relevant Fire Protection District;~~ and
 - vi. the Chair of the Champaign County Board has not prohibited all OPEN BURNING of LANDSCAPE WASTE due to emergencies which require shifting of staff priorities or conditions that may represent significant potential for fire safety issues.
- (3) The setting of fires to combat or limit existing fires, when reasonably necessary in the judgment of the relevant Fire Protection District.
 - (4) The burning of fuels for legitimate campfire, recreational, and cooking purposes or in domestic fireplaces provided that no GARBAGE shall be burned.
 - (5) The burning of waste gases.
 - (6) Small open flames for heating tar, for welding, acetylene torches, highway safety flares, and the like.

ATTACHMENT A.
REVISED Draft amendment to the Champaign County Nuisance Ordinance
SEPTEMBER 6, 2007

- (7) The open burning of AGRICULTURAL WASTE that conforms to the requirements of the Illinois Pollution Control Board and the Illinois Environmental Protection Agency as established in Title 35 Illinois Administrative Code Part 237 Open Burning.
- (8) Other open burning as specifically permitted by IEPA and in conformance with any special conditions imposed by the IEPA.

4. Add the following to subsection 4.1 County Officials- Powers and Duties:

- D. The Chair of the Champaign County Board shall have the authority to prohibit all open burning of LANDSCAPE WASTE in the event of emergencies which require shifting of staff priorities or conditions that may represent significant potential for fire safety issues.

Champaign
County
Department of



Brookens
Administrative Center
1776 E. Washington Street
Urbana, Illinois 61802

TEL (217) 384-3708
FAX (217) 328-2426

TO: **Environment and Land Use Committee**
FROM: **John Hall, Zoning Administrator**
DATE: **September 6, 2007**
RE: **Proposed intergovernmental agreement regarding development pursuant to municipal annexation agreement**

STATUS

A Draft Resolution calling for an intergovernmental agreement addressing issues related to the *Chatham* decision was considered by the Committee at the last meeting but approval was deferred.

The attached Revised Draft Resolution has been made more restrictive by adding provisions related to a municipal comprehensive plan and also limiting annexation agreements on non-contiguous properties within the one-and-one-half mile extraterritorial jurisdiction area.

The strike out indicates material removed and new material is indicated by underlining.

ATTACHMENT

A Revised Draft Resolution (strike-out version)

DRAFT

**RESOLUTION NO. _____
RESOLUTION CALLING FOR AN INTERGOVERNMENTAL AGREEMENT
REGARDING DEVELOPMENT PURSUANT TO
MUNICIPAL ANNEXATION AGREEMENT**

WHEREAS, the Illinois Supreme Court has determined in *Village of Chatham v. Sangamon County* that the Illinois Municipal Code does provide that property subject to an annexation agreement with a municipality is thereafter subject to the ordinances, control, and jurisdiction of the municipality and not those of the county even though the property is not actually annexed; and

WHEREAS, the Illinois House of Representatives by resolution established a Legislative Commission to deal with statewide concerns arising from the *Chatham* decision but that Legislative Commission has never met and has not proposed a comprehensive amendment to this part of the Illinois Municipal Code; and

WHEREAS, HB3597 as amended restricted that provision of the Illinois Municipal Code in certain listed counties in which the county board will have the option to retain jurisdiction over properties located more than one-and-one-half miles from municipalities but Champaign County was not included in the list of specific counties; and

WHEREAS, the Champaign County Board has requested in Resolution No. 5942 on April 19, 2007, that Champaign County be included in the list of specific counties that may be exempted from the relevant provision of the Illinois Municipal Code and still hopes to achieve such designation;

WHEREAS, the Champaign County Board believes it is for the best interests of the County and for the public good and welfare that Champaign County should have the right to decide whether or not property that is ~~more than one and one-half miles from~~ not contiguous to a municipality and subject to an annexation agreement should also be subject to municipal zoning, building codes, and subdivision jurisdiction or be subject to those of the County; and

NOW, THEREFORE, BE IT RESOLVED, by the Champaign County Board, Champaign County, Illinois, as follows:

1. Resolution No. 5942 approved on April 19, 2007, is hereby reaffirmed.
2. Unless and until the desired outcomes of Resolution No. 5942 are achieved, Champaign County shall seek an agreement with every Champaign County municipality ~~that no annexation agreement shall be entered into on property that is more than one and one-half miles from the municipality unless the Champaign County Board has passed a Resolution in support of an annexation agreement for the development.~~ regarding non-contiguous development pursuant to an annexation

DRAFT

RESOLUTION NO. _____

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agreement. The agreement shall stipulate that no development shall be authorized by a municipal annexation agreement on land that is not contiguous to the annexing municipality except provided as follows:

- a. The annexing municipality shall have a comprehensive plan in conformance with 65 ILCS 5/ 11-12-4 et seq and the development authorized by the annexation agreement shall be clearly anticipated in that comprehensive plan.
 - b. That no annexation agreement shall be entered into on property that is more than one-and one-half miles from the municipality unless the Champaign County Board has passed a Resolution in support of an annexation agreement for the development.
 - c. That no annexation agreement shall be entered into on property that is within one-and-one-half miles of the municipality unless the property is served by a connected public water supply and a connected public sanitary sewer or unless the Champaign County Board has passed a Resolution in support of an annexation agreement for the development.
3. The Champaign County Administrator, States Attorney, and Zoning Administrator are hereby directed to prepare such a Draft agreement for approval by the County Board prior to distribution to all Champaign County municipalities as soon as possible.
 4. ~~Champaign County municipalities are hereby requested to not approve annexation agreements for development that is more than one-and one-half miles from the municipality without a County Board Resolution in support of an annexation agreement for the development.~~ Until such time that a specific agreement with Champaign County regarding annexation agreements has been considered by the various municipal governments in Champaign County, each municipal government is hereby requested to not approve annexation agreements for non-contiguous development that does not comply with this Resolution.
 5. The County Administrator is hereby directed to provide a copy of this Resolution to all Champaign County municipalities.
 6. The Zoning Administrator is hereby directed to provide a copy of this Resolution to anyone inquiring about a zoning map amendment or Special Use Permit.

PRESENTED, PASSED, APPROVED AND RECORDED this 20th day of September, A.D. 2007.

DRAFT

RESOLUTION NO. _____

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SIGNED:

ATTEST:

C. Pius Weibel, Chair
Champaign County Board

Mark Shelden, County Clerk &
ex officio Clerk of the County Board

