

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

NOTICE OF REGULAR MEETING

Date: May 29, 2008

Time: 7:00 p.m.

Place: Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington Street
Urbana, IL 61802

**Note: NO ENTRANCE TO BUILDING
FROM WASHINGTON STREET PARKING
LOT AFTER 4:30 PM.
Use Northeast parking lot via Lierman Ave..
and enter building through Northeast
door.**

*If you require special accommodations please notify the Department of Planning & Zoning at
(217) 384-3708*

EVERYONE MUST SIGN THE ATTENDANCE SHEET – ANYONE GIVING TESTIMONY MUST SIGN THE WITNESS FORM

AGENDA

1. Call to Order
2. Roll Call and Declaration of Quorum
3. Correspondence
4. Approval of Minutes
5. Continued Public Hearings

*Case 583-AT-07 Petitioner: Zoning Administrator

- Request:
1. Amend Section 3.0 Definitions to add “GAS PIPELINE”; “HAZARDOUS LIQUIDS PIPELINE”; “PIPELINE IMPACT RADIUS”.
 2. Add new paragraph 4.3.4H. that does the following:
 - a. Identifies the PIPELINE IMPACT RADIUS for a HAZARDOUS LIQUIDS PIPELINE to be 150 feet;
 - b. Identifies the PIPELINE IMPACT RADIUS FOR A GAS PIPELINE to be identical to the potential impact radius as defined by Title 49 of the Code of Federal Regulations (CFR), Part 192.03 which is based upon maximum allowable operating pressure in the pipeline segment in pounds per square inch and the nominal diameter of the pipeline in inches. The PIPELINE IMPACT RADIUS for a GAS PIPELINE is specific to each Pipeline. Typical PIPELINE IMPACT RADIUS for GAS PIPELINES in Champaign County is 350 feet or more.

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
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Case 583-AT-07 cont:

- c. Prohibits the following within any PIPELINE IMPACT RADIUS:
 - (1) Creation of a new LOT.
 - (2) The establishment of any USE other than AGRICULTURE or an AGRICULTURE ACCESSORY USE.

6. New Public Hearings

Case 615-V-08: Petitioner: **James A. Hughes, Carol Fluck and Judy A. Kirby**

Request: **Authorize the creation and use of a lot with an average lot width of 164.75 feet in lieu of the required minimum average lot width of 200 feet in the AG-1, Agriculture Zoning District.**

Location: **A proposed one acre tract in the Northwest Quarter of the Southwest Quarter of the Northeast Quarter of Section 17 of Philo Township and commonly known as the house at 968 North CR 1350E, Tolono.**

7. Staff Report

8. Other Business

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

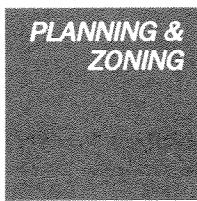
10. Adjournment

***Administrative Hearing. Cross Examination allowed.**

CASE NO. 583-AT-07

SUPPLEMENTAL MEMORANDUM

Champaign County Department of
Petitioner: **Zoning Administrator**



Brookens
Administrative Center
1776 E. Washington Street

Urbana, Illinois 61802 Request: 1. Amend Section 3.0 Definitions to add "GAS PIPELINE"; "HAZARDOUS LIQUIDS PIPELINE"; and "PIPELINE IMPACT RADIUS".
(217) 384-3708
FAX (217) 328-2426

2. Add new paragraph 4.3.4 H. that does the following:

- a. Identifies the PIPELINE IMPACT RADIUS for a HAZARDOUS LIQUIDS PIPELINE to be 150 feet.
- b. Identifies the PIPELINE IMPACT RADIUS for a GAS PIPELINE to be identical to the potential impact radius as defined by Title 49 of the Code of Federal Regulations (CFR), Part 192.03 which is based upon maximum allowable operating pressure in the pipeline segment in pounds per square inch and the nominal diameter of the pipeline in inches. The PIPELINE IMPACT RADIUS for a GAS PIPELINE is specific to each pipeline. Typical PIPELINE IMPACT RADIUS for GAS PIPELINES in Champaign County is 350 feet or more.
- c. Prohibits the following within any PIPELINE IMPACT RADIUS:
 - (1) Creation of a new LOT.
 - (2) The establishment of any USE other than AGRICULTURE or an AGRICULTURE ACCESSORY USE.

STATUS

This case was originally continued from the November 29, 2007, ZBA meeting to the January 31, 2008, ZBA meeting. The January 31 meeting was cancelled due to inclement weather. At the February 14, 2008, ZBA meeting the Board continued this case to the May 15, 2008, meeting. However, at the May 1, 2008, meeting the Board continued this case to the May 29, 2008, meeting due to scheduling conflicts with other cases. This is the third meeting for this case.

Staff will have samples of the pipeline maps prepared by the GIS Consortium at the meeting. These maps will be used to determine if a property is located within a pipeline impact radius.

See underlined text in the Finding of Fact for all changes.

COMMENTS FROM PIPELINE OPERATORS

This memo was sent to all pipeline operators in the county. To date comments have only been received from two pipeline operators. The case appears ready for final action.

ATTACHMENTS

- A Revised Draft Amendment to the *Zoning Ordinance*
- B Letter from Tom Puracchio, Manager of Gas Storage, Peoples' Gas, dated July 7, 2006
- C Letter from Michael Tague received on January 29, 2008
- D Excerpt of Minutes from the July 13, 2006, ZBA meeting (included separately)
- E Minutes from the November 29, 2008, ZBA meeting (included separately)
- F Revised Draft Finding of Fact for Case 583-AT-07

1. The following definitions are proposed to be added to Section 3:

PIPELINE IMPACT RADIUS: The distance within which the potential failure of a GAS PIPELINE or a HAZARDOUS LIQUIDS PIPELINE could have significant impact to people and property structures.

PIPELINE, GAS: Any transmission pipeline used for the transmission of gases including within a storage field and any well head used for the subterranean injection of gases at high pressures. This definition does not apply to either distribution service lines for local service to individual buildings or distribution lines, as defined in 49 CFR 192.903.

PIPELINE, HAZARDOUS LIQUID: Any pipeline used for the transmission of anhydrous ammonia, petroleum, or petroleum products such as propane, butane, liquefied natural gas, benzene, gasoline, jet fuel, diesel fuel, fuel oil, and kerosene.

2. Add the following Subparagraph H. to Subsection 4.3.4 Lots, as follows:

H. Restrictions on LOTS and USES within any PIPELINE IMPACT RADIUS

1. PIPELINE IMPACT RADIUS

a. The PIPELINE IMPACT RADIUS for a GAS PIPELINE is similar identical to the potential impact radius identified by Title 49 of the Code of Federal Regulations Part 192.903. Potential impact radius as defined by 49 CFR 192.903 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 in the pipeline segment in pounds per square inch and d' is the nominal diameter of the pipeline in inches. Maximum allowable operating pressure and nominal diameter will be provided by the pipeline operator. Nominal diameter used in the determination of PIPELINE IMPACT RADIUS shall be the approximate diameter of the pipe and not necessarily the actual overall diameter. The PIPELINE IMPACT RADIUS indicated in these regulations is not necessarily the same as the potential impact radius used by the Illinois Commerce Commission to enforce 49 CFR 192.903. Both the PIPELINE IMPACT RADIUS and potential impact radius are approximations of the effect of any given potential failure event.

b. The PIPELINE IMPACT RADIUS for a HAZARDOUS LIQUID PIPELINE is 150 feet.

2. No LOT created in an RRO DISTRICT or in the R-1, R-2, R-3, R-4, or R-5 DISTRICT after *{DATE OF ADOPTION}* shall be located within a PIPELINE IMPACT RADIUS except as authorized in 4.3.4.H.4.

Revised Draft Amendment to the Zoning Ordinance

MAY 23, 2008

3. No USE, BUILDING, or STRUCTURE established or built after *{DATE OF ADOPTION}* shall be located within a PIPELINE IMPACT RADIUS except as provided in paragraph 4.3.4 H.4.
4. Exemptions
 - a. AGRICULTURE or an ACCESSORY USE, ACCESSORY BUILDING, or ACCESSORY STRUCTURE to AGRICULTURE.
 - b. Any PIPELINE, high pressure wellhead, or USE that is an ACCESSORY USE, ACCESSORY BUILDING, or ACCESSORY STRUCTURE to a GAS PIPELINE or HAZARDOUS LIQUID PIPELINE.
 - c. Enlargement, repair, and replacement of conforming USES, BUILDINGS, and STRUCTURES that were lawfully established and existed on *{DATE OF ADOPTION}*.
 - d. USES, BUILDINGS and STRUCTURES established after *{DATE OF ADOPTION}* on conforming LOTS of record that existed on *{DATE OF ADOPTION}*.
 - e. Any outlet or STREET created in any RRO or residential DISTRICT.
 - f. USES, BUILDINGS, and STRUCTURES on LOTS that are exempt from the requirement for the Rural Residential Overlay Zoning District and that are created after *{DATE OF ADOPTION}*.
5. Notice of PIPELINE IMPACT RADIUS.
 - a. The ZONING ADMINISTRATOR shall provide notice of the existence of a PIPELINE IMPACT RADIUS to any applicant for a Zoning Use Permit that is located within a PIPELINE IMPACT RADIUS, even if exempt from the requirements of paragraph 4.3.4 H.
 - b. The notice shall include the following information:
 - i. The approximate location and type of the relevant pipeline ~~including the type of pipeline and diameter and maximum operating pressure if relevant.~~
 - ii. The dimension of the PIPELINE IMPACT RADIUS including the approximate location on the proposed LOT.
 - iii. The last known point of contact for the relevant pipeline operator.

HALL



July 7, 2006

*** REVISED ***

Mr. John Hall
Director, Champaign County Department of
Planning and Zoning
Brookers Administrative Center
1776 E. Washington Street
Urbana, IL 61802

**Re: Proposed Shiloh Swale Residential Development -- Petition to Amend the
Zoning Map to Add the Rural Residential Overlay: Case 542-AM-06**

Dear Mr. Hall:

I am the Manager of Gas Storage for The Peoples Gas Light and Coke Company ("Peoples"). The purpose of this letter is to provide Champaign County and the zoning applicant in Case 542-AM-06 with information regarding natural gas storage field easements and natural gas pipeline easements contained within the proposed 81.5 acre Shiloh Swale Subdivision. Peoples believes existing natural gas easement facilities will require adjustments to the proposed residential development. Please place this letter and its enclosures into the record of Case 542-AM-06 and into the record of any subdivision proceedings regarding this property.

Background Information

By means of background, we are enclosing:

1. Ten copies of the October 14, 1965 "Gas Storage Grant Pipeline Right-of-Way and Easement" recorded with the Champaign County Recorder of Deeds at Book 805, Page 95 (the "1965 Easement"), establishing that Peoples, as Grantee, holds the following easement regarding the storage of natural gas over the entire proposed 81.5 acre residential development:

... the exclusive right, privilege and authority to introduce natural gas or other gases or vapors (all herein referred to as "gas") into any geological strata underlying said land not containing oil or gas in commercial quantities (all such strata being referred to as the "Storage Reservoir"); to store gas in the Storage Reservoir and to retain the possession of gas so stored as personal property; to remove gas (with any water vapors absorbed) from the Storage

John Hall
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Reservoir; and to use, hold and occupy the Storage Reservoir for all such purposes and in connection therewith and with exploratory operations incidental thereto, the further right, privilege and easement to conduct geological or geophysical surveys, and to drill, install, maintain, renew, operate and remove at locations selected by Grantee such wells, pipelines, electric lines and other structures, equipment and appurtenances as Grantee may deem necessary or desirable therefor; to remove therefrom all property placed in or on said land by Grantee, including well casings; to have the right of ingress and egress to, from and across said land at necessary points; and to do and perform such other acts and things as may be necessary for all foregoing purposes; all as part of and in connection with the gas storage project for the storage as gas to be conducted on and under said lands and in the vicinity thereof. . . .”

Peoples has subsequently used this easement and many other similar easements to develop the underground natural gas storage facility known as Manlove Field. Manlove Field underlies more than forty square miles encompassing nearly all of Newcomb Township and parts of Bown, East Bend, and Condit townships in Champaign County along with a small portion of Blue Ridge township in Piatt County. The Company and its affiliates began drilling operations in 1959 and began injecting gas in the early 1960's. The operation has increased over the years to the point where there are now 190 injection/withdrawal and observation wells, approximately 70 miles of natural gas pipelines, 70 miles of water disposal pipelines, and 70 miles of alcohol distribution pipelines. The natural gas is stored in sandstone at a depth of approximately 4,000 feet. Natural gas stored at Manlove Field is ultimately delivered to The Peoples Gas Light and Coke Company's distribution system in the city of Chicago. On a cold winter day, about one-half of the natural gas used in the city of Chicago can originate from Manlove Field.

In addition, the 1965 Easement provides Peoples with an easement respecting the installation of pipelines:

“. . . to construct within said land and to reconstruct, operate, maintain, inspect, test, repair, alter, replace, move, remove, change the size of and abandon in place an initial pipeline and any additional pipelines desired by Grantee for the transportation of gas, oil, or other substances transportable by pipeline, together with all rights necessary or convenient for the enjoyment of the rights, privileges and easements hereby granted. As used herein, the word

“pipeline” shall also include such surface and subsurface appurtenances and facilities as are necessary or convenient in the judgment of Grantee for the operation or maintenance of any surface appurtenances and facilities as are necessary or convenient in the judgment of Grantee for the operation or maintenance of any such pipeline. Grantee shall have the right of ingress and egress over said land at convenient points for the exercise of the rights, privileges and easements herein granted;

2. Ten copies of the proposed Shiloh Swale Subdivision prepared by the zoning applicant, with overlays prepared by Peoples indicating:

- a. the location of existing wells both on the 81.5 acres in question and upon neighboring property; and
- b. the location of the existing 12-inch diameter high pressure natural gas line, 12-inch diameter water line, and 2-inch diameter alcohol line installed by Peoples in connection with the use and enjoyment of its rights under the 1965 Easement; and
- c. the location of the “Potential Impact Radius” defined in the U.S. Department of Transportation “Pipeline Integrity Management” regulations found at 49 C.F.R. 192.901, et seq. The phrase “Potential Impact Radius” is defined in federal regulations as “the radius of a circle within which the potential failure of a pipeline could have significant impact on people or property”; and
- d. On occasion our operation requires certain maintenance activities that might result in noise for a few hours. Because of the critical nature of our business, i.e., delivery of natural gas primarily for home heating in the winter, this venting of gas may occur at any time of the day or night and without notice to any adjacent property owner.

Comments

Based upon the nature of Peoples’ easement rights and its natural gas operations, Peoples respectfully submits that:

1. The perimeter non-buildable easement areas (*i.e.*, Lot 136 and Lot 137 on the draft plat of subdivision submitted by applicant in conjunction with its zoning application) should be increased from what is shown on applicant’s current rendering from a width of 30 feet to the respective widths shown on the overlay prepared by Peoples described in item 2(b), above, based

John Hall
July 7, 2006
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on the statement in the 1965 Easement that pipelines 16 inches or less in diameter each enjoy a 30-foot easement strip. Therefore, in instances where 2 pipelines exist the total easement width is 60 feet and where 3 pipelines exist the total easement width is 90 feet.

2. The conceptual, preliminary and final plats of subdivision should show the pipeline easement areas consistent with the 1965 Easement, as required pursuant to Section 8.1.2(b)(2) and (6) of the County subdivision ordinance, utilizing the easement width shown on the aforesaid overlay prepared by Peoples;

3. Any zoning approvals and subdivision approvals granted by the County should clearly delineate maximum permissible building areas on each subdivided lot in a manner which excludes each of the aforesaid Peoples pipeline easements, and should expressly prohibit the construction of any principal or accessory buildings anywhere outside permissible building areas, and specifically prohibit the construction of accessory garages, tool sheds, and paving within the pipeline easement areas shown on the overlay prepared by Peoples. Although Peoples' aforesaid easement rights are of record with Champaign County, it is in everyone's best interest to make future property owners and occupants of the proposed development fully aware of the need to forego the construction of buildings, structures, and paving in areas within the pipeline easements. This request is consistent with the terms of Section 14.7.2 of the County Subdivision Ordinance that "Easements, of a public or private nature, shall contain no structure and/or accessory buildings in or on the land, except essential public utility structures" and in Section 17.1.1 that "additional width sufficient to avoid conflict shall be provided . . ." in easement areas. The Board should consider that the majority of pipeline incidents nationwide are the result of third-party damage and that the likelihood of third-party damage naturally increases with population density.

4. Included in the minutes of the regular meeting of the Champaign County Zoning Board of Appeals of June 29, 2006, are comments made by Mr. Louis Wozniak. In particular, at lines 23-24 Mr. Wozniak indicates that under certain conditions the "gas company ... must ... move the pipeline..." For the purpose of correcting the record, Mr. Wozniak's interpretation of the US DOT Regulations is inaccurate, the DOT Code does not put Peoples (or any other gas company under similar circumstances) under any obligation to move a pipeline. In fact, our easement grants us the specific right to install additional pipelines on the property, as "necessary or desirable". These rights are in full force and would not be affected in any way by the proposed subdivision of the property.

John Hall
July 7, 2006
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Questions

In reviewing the zoning applications and the draft plat of subdivision submitted by applicant, Peoples respectfully requests responses from the County to the following questions:

1. Is the proposed subdivision layout consistent with the minimum lot width requirements of Section 5.3 and 4.3.4 of the County Zoning Ordinance?
2. Are the proposed streets within the subdivision in compliance with the requirements of Section 14.2.11(b) of the Champaign County subdivision ordinance which states that "Residential cul-de-sacs shall not exceed 1300 feet in length nor serve more than 20 dwelling units," and given the statement in Section 14.2.11(a) that "The maximum length of any cul-de-sac shall be measured from the center of the turning circle to the center point of the nearest intersection from which 2 or more distant routes of travel are available to the nearest fire station". Is the proposed subdivision layout consistent with these limitations?
3. Were all proper parties in the community notified? The copy of the zoning application form provided us does not contain the list of nearby property owners which is required per item 10 of the application form.

In addition to the foregoing, Peoples would also like to discuss the location and construction specifications for any proposed bike pathways in the vicinity of Peoples facilities.

By means of this letter, Peoples respectfully requests that it be provided with copies of all future correspondence relating to the zoning and subdivision applications pertaining to the aforesaid 81.5 acres, and that Peoples be provided reasonable and prior notice of any staff meetings, public hearings or meetings pertaining to the same.

Sincerely,

THE PEOPLES GAS LIGHT AND COKE COMPANY

By: Thomas L. Puracchio
Thomas L. Puracchio
Its: Manager, Gas Storage

cc: (via US Mail) Louis Wozniak

THE LAW FIRM OF
FLYNN, PALMER & TAGUE

JOHN L. FRANKLIN
(1907-1984)
LEONARD T. FLYNN
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OF COUNSEL
CHARLES L. PALMER

January 28, 2008

RECEIVED

JAN 29 2008

CHAMPAIGN CO. P & Z DEPARTMENT

Mr. John Hall
Champaign County
Department of Planning and Zoning
Brookens Administrative Center
1776 East Washington Street
Urbana, IL 61802

RE: Case 583-AT-07

Dear John:

I just received the latest preliminary draft of the proposed text amendment. Item B(1)2. does still not specifically address a situation where a lot is to be created in which only a portion would be within the impact radius. I believe that the following language needs to be inserted at the end of that provision: "... without adequate building area outside the potential impact radius."

The reason that this language is necessary is that when Item 2 is coupled with Item 3, material public safety issues are completely mitigated by keeping the non-exempt use and buildings (i.e. family residential structures) out of the impact radius. A statute that would result in a situation where a lot could not be created that may be partially within the pipeline impact radius but with that part within the pipeline impact radius having no more density of occupancy or activity than before creation of the lot would be an unreasonable burden on property rights and development potential of the property with no material corresponding benefit improving public safety. There is absolutely no evidence in the record that prohibiting the creation of a lot in an RRO District, R-1, R-2, R-3, R-4 or R-5 District which would have suitable building area outside the pipeline impact radius and ultimately all non-exempt building structures and uses outside the pipeline impact radius, promotes public safety or any other permissible land use goal of the County under its existing ordinances more than allowing such lots with adequate building area outside the pipeline impact radius. There is ample evidence that not permitting the creation of lots that have adequate building area outside the potential impact radius would have serious negative consequences to landowners that otherwise would meet zoning district requirements. Accordingly, with no evidence of any benefit and ample evidence of detriment, the ordinance without the language I have suggested is not only unsound but legally and constitutionally impermissible.

January 28, 2008

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I would urge the Zoning Board of Appeals and ultimately the County Board not to enact a statute with a significant legal infirmity that would have a high likelihood of putting the matter into litigation before the Courts immediately following enactment of the ordinance.

Very truly yours,

FLYNN, PALMER & TAGUE

Michael J. Tague

MJT/st

REVISED DRAFT for May 23, 2008

583-AT-07

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

Final Determination: **{GRANTED / DENIED}**

Date: May 23, 2008

Petitioner: Zoning Administrator

- Request:
1. Amend Section 3.0 Definitions to add “GAS PIPELINE”; “HAZARDOUS LIQUIDS PIPELINE”; and “PIPELINE IMPACT RADIUS”.
 2. Add new paragraph 4.3.4 H. that does the following:
 - a. Identifies the PIPELINE IMPACT RADIUS for a HAZARDOUS LIQUIDS PIPELINE to be 150 feet.
 - b. Identifies the PIPELINE IMPACT RADIUS for a GAS PIPELINE to be identical similar to the potential impact radius as defined by Title 49 of the Code of Federal Regulations (CFR), Part 192.903 which is based upon maximum allowable operating pressure in the pipeline segment in pounds per square inch and the nominal diameter of the pipeline in inches. The PIPELINE IMPACT RADIUS for a GAS PIPELINE is specific to each pipeline. Typical PIPELINE IMPACT RADIUS for GAS PIPELINES in Champaign County is 350 feet or more.
 - c. Prohibits the following within any PIPELINE IMPACT RADIUS:
 - (1) Creation of a new LOT in the R-1, R-2, R-3, R-4, R-5, or RRO Districts.
 - (2) The establishment of any USE, BUILDING, or STRUCTURE other than those specifically exempted.
 - d. Exempts AGRICULTURE, AGRICULTURE ACCESSORY USES; any USE ACCESSORY to a GAS or HAZARDOUS LIQUID PIPELINE; existing USES, BUILDINGS, and STRUCTURES and additions thereto; new USES, BUILDING, or STRUCTURES on existing lots; new USES, BUILDINGS, and STRUCTURES on LOTS that are exempt from the RRO District; and any outlot or STREET in any RRO District or R District.

FINDING OF FACT

From the documents of record and the testimony and exhibits received at the public hearing conducted on **September 27, 2007, November 30, 2007, and May 23, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The petitioner is the Zoning Administrator.
2. The need for the amendment came about as follows:
 - A. Three recent requests for rezoning to the Rural Residential Overlay (RRO) Zoning District have been located on properties in close proximity to natural gas pipelines and two of those cases are located in the vicinity of the Manlove Gas Storage Facility.
 - B. There are many liquid and gas pipelines that cross Champaign County. The Manlove Gas Storage Facility in Newcomb, Brown, and East Bend Townships is the most concentrated area of pipelines in the County.
 - C. The *Zoning Ordinance* currently only contains minimal regulations to ensure land use compatibility and safety near pipelines.
 - D. On March 12, 2007, ELUC directed staff to prepare a text amendment to ensure land use compatibility and safety near pipelines.

GENERALLY REGARDING THE EXISTING ZONING REGULATIONS

3. The *Zoning Ordinance* already has basic provisions intended to ensure some degree of land use compatibility in the vicinity of pipelines, as follows:
 - A. Paragraph 4.2.2 D. prohibits any construction within utility easements as follows (capitalized words are defined in the Ordinance):

No USE shall be established, CONSTRUCTION undertaken, nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement.
 - B. Subparagraph 5.4.3 C.2.k. requires that in making findings for map amendments (rezoning) to the Rural Residential Overlay (RRO) Zoning District the Zoning Board of Appeals (ZBA) shall consider, among other things, "The presence of nearby natural or man-made hazards."
 - C. Paragraph 5.4.5 B. requires that an application for a map amendment to the RRO District must include an open title commitment or a title policy not more than 12 months old. The open title commitment will indicate if there is an easement for a pipeline on the property proposed for rezoning.
 - D. The following definitions from the *Zoning Ordinance* are especially relevant to this amendment (capitalized words are defined in the Ordinance):

- (1) “ACCESS” is the way MOTOR VEHICLES move between a STREET or ALLEY and the principal USE or STRUCTURE on a LOT abutting such STREET or ALLEY.
- (2) “ACCESS STRIP” is that part of a FLAG LOT which provides the principal ACCESS to the LOT, and has FRONTAGE upon a STREET.
- (3) “ACCESSORY USE” is a USE on the same LOT customarily incidental and subordinate to the main or principal USE or MAIN or PRINCIPAL STRUCTURE.
- (4) “AGRICULTURE” is the growing, harvesting, and storing of crops including legumes, hay, grain, fruit, and truck or vegetable crops, floriculture, horticulture, mushroom growing, orchards, forestry, and the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony, and horse production, fur farms, and fish and wildlife farms; farm BUILDINGS used for growing, harvesting, and preparing crop products for market, or for use on the farm; roadside stands, farm BUILDINGS for storing and protecting and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm DWELLINGS occupied by farm OWNERS, operators, tenants or seasonal or year-round hired farm workers. It is intended by this definition to include within the definition of AGRICULTURE all types of agricultural operations, but to exclude therefrom industrial operations such as a grain elevator, canning or slaughterhouse, wherein agricultural products produced primarily by others are stored or processed. Agricultural purposes include without limitation, the growing, developing, processing, conditioning, or selling of hybrid seed corn, seed beans, seed oats, or other farm seeds.
- (5) “AREA, LOT” is the total area within the LOT LINES.
- (6) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION, or as otherwise permitted by law, to be used, developed, or built upon as a unit.
- (7) “LOT, FLAG” is an interior LOT separated from STREETS by intervening LOTS except for an ACCESS STRIP which provides FRONTAGE upon a STREET.
- (8) “UTILITY, PUBLICLY REGULATED” is a business or entity providing water, sanitary sewer, power and light, television cable, or similar services to the public of such a nature that it enjoys an exclusive franchise, in a specific geographic area, and is regulated by a Federal, State, or local governmental regulatory agency.

SUMMARY OF THE PROPOSED AMENDMENT

- 4 The proposed amendment regulates the use of lots within a certain distance of an underground pipeline, as follows:

- A. The following definitions are proposed to be added to Section 3:
- (1) PIPELINE IMPACT RADIUS: The distance within which the potential failure of a GAS PIPELINE or a HAZARDOUS LIQUIDS PIPELINE could have significant impact to people and property structures.
 - (2) PIPELINE, GAS: Any transmission pipeline ~~used for the transmission of gases including within a storage field and any well head used for the subterranean injection of gases at high pressures.~~ This definition does not apply to either distribution service lines for local service to individual buildings or distribution lines, as defined in 49 CFR 192.903.
 - (3) PIPELINE, HAZARDOUS LIQUID: Any pipeline used for the transmission of anhydrous ammonia, petroleum, or petroleum products such as propane, butane, liquefied natural gas, benzene, gasoline, jet fuel, diesel fuel, fuel oil, and kerosene.
- B. Add the following Subparagraph H. to Subsection 4.3.4 Lots, as follows (the following is numbered and lettered as it will appear in the *Zoning Ordinance*):
- H. Restrictions on LOTS and USES within any PIPELINE IMPACT RADIUS
1. PIPELINE IMPACT RADIUS
 - a. The PIPELINE IMPACT RADIUS for a GAS PIPELINE is similar identieal to the potential impact radius identified by Title 49 of the Code of Federal Regulations Part 192.903. Potential impact radius as defined by 49 CFR 192.903 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 in the pipeline segment in pounds per square inch and d' is the nominal diameter of the pipeline in inches. Maximum allowable operating pressure and nominal diameter will be provided by the pipeline operator. Nominal diameter used in the determination of PIPELINE IMPACT RADIUS shall be the approximate diameter of the pipe and not necessarily the actual overall diameter. The PIPELINE IMPACT RADIUS indicated in these regulations is not necessarily the same as the potential impact radius used by the Illinois Commerce Commission to enforce 49 CFR 192.903. Both the PIPELINE IMPACT RADIUS and potential impact radius are approximations of the effect of any given potential failure event.
 - b. The PIPELINE IMPACT RADIUS for a HAZARDOUS LIQUID PIPELINE is 150 feet.
 2. No LOT created in an RRO DISTRICT or in the R-1, R-2, R-3, R-4, or R-5 DISTRICT after {DATE OF ADOPTION} shall be located within a PIPELINE IMPACT RADIUS except as authorized in 4.3.4.H.4.

3. No USE, BUILDING, or STRUCTURE established or built after *{DATE OF ADOPTION}* shall be located within a PIPELINE IMPACT RADIUS except as provided in paragraph 4.3.4 H.4.
4. Exemptions
 - (a) AGRICULTURE or an ACCESSORY USE, ACCESSORY BUILDING, or ACCESSORY STRUCTURE to AGRICULTURE.
 - (b) Any PIPELINE, high pressure wellhead, or USE that is an ACCESSORY USE, ACCESSORY BUILDING, or ACCESSORY STRUCTURE to a GAS PIPELINE or HAZARDOUS LIQUID PIPELINE.
 - (c) Enlargement, repair, and replacement of conforming USES, BUILDINGS, and STRUCTURES that were lawfully established and existed on *{DATE OF ADOPTION}*.
 - (d) USES, BUILDINGS and STRUCTURES established after *{DATE OF ADOPTION}* on conforming LOTS of record that existed on *{DATE OF ADOPTION}*.
 - (e) Any outlot or STREET created in any RRO or residential DISTRICT.
 - (f) USES, BUILDINGS, and STRUCTURES on LOTS that are exempt from the requirement for the Rural Residential Overlay Zoning District and that are created after *{DATE OF ADOPTION}*.
5. Notice of PIPELINE IMPACT RADIUS.
 - (a) The ZONING ADMINISTRATOR shall provide notice of the existence of a PIPELINE IMPACT RADIUS to any applicant for a Zoning Use Permit that is located within a PIPELINE IMPACT RADIUS, even if exempt from the requirements of paragraph 4.3.4 H.
 - (b) The notice shall include the following information:
 - (1) The approximate location and type of the relevant pipeline ~~including the type of pipeline and diameter and maximum operating pressure if relevant.~~
 - (2) The dimension of the PIPELINE IMPACT RADIUS including the approximate location on the proposed LOT.
 - (3) The last known point of contact for the relevant pipeline operator.

GENERALLY REGARDING LAND USE SAFETY CONCERNS RELATED TO PIPELINES

5. There are different land use safety concerns for pipelines carrying hazardous liquids and pipelines carrying natural gas, as follows:
 - A. 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.
- B. There are no Federal regulations which specify a buffer for hazardous liquid pipelines, but a 1987 research survey by the American Petroleum Institute found that most damage occurred within 150 feet of hazardous liquid pipelines.
- 6. Regarding testimony received during the public hearing for Zoning Case 542-AM-06:
 - A. Zoning Case 542-AM-06 was a rezoning to the Rural Residential Overlay (RRO) District on property within a pipeline impact radius.
 - B. In a letter dated July 7, 2006, and in testimony at the July 13, 2006, ZBA meeting Tom Purrachio, Gas Storage Manager for the People's Gas Light and Coke Company testified as follows:
 - (1) 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 on the weather.
 - (2) 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.
 - C. Frank Kamerer, a neighbor to the subject property of Case 542-AM-06 at 2648 CR 350E, testified at the July 13, 2006, ZBA meeting as follows:
 - (1) As people have moved to smaller lots in the area some of them have built houses almost on top of the gas pipeline.
 - (2) He was [near the site of the 1998 incident] 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.
 - (3) People's replaced three quarters of a mile of gas pipeline on his property last year.

- (4) The pipelines are man made and some day they will fail, but People's has done a good job so far.
- D. Dave Nelson, a neighbor to the subject property in Case 542-AM-06 at 2659 CR 350E, testified at the July 13, 2006, ZBA meeting as follows:
- (1) 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 Route 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 People's 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.

GENERALLY REGARDING PUBLIC TESTIMONY

7. Testimony received in the public hearing for this case can be summarized as follows:
- A. Tom Purracchio, Manager of Gas Storage for People's Gas, testified at the October 11, 2007, ZBA meeting as follows:
- (1) People's Gas has made it clear that the governing federal regulations established a potential impact radius that do not in any way prohibit the right of construction within the impact radius.
- (2) People's Gas would prefer that instead of prohibiting construction in the potential impact radius the landowners that are in the pipeline impact radius be notified and made aware of the existence of the pipeline to avoid harm or damage.
- (3) He said that People's Gas feels the County could be of assistance with this process by referring to the existence of the pipeline easements on plats of subdivisions which are approved by the County.
- (4) He said that the County could also assist this process by referring to the existence of pipeline easements in various zoning and site plan approvals.
- (5) He said that these practices would raise property owner's knowledge and awareness and understanding about the existence of pipelines on their property.
- B. Michael Tague, attorney representing Mr. Batement in Case 520-AM-05 testified at the October 11, 2007, ZBA meeting that if the County does adopt an ordinance that would prohibit any creation of lots in any part of the potential impact radius it would be unconstitutional if it is not rationally supported by a material improvement in public safety due to the minuscule probability of potential impact in the first instance and the mathematical small statistical reduction of such number at a very severe cost to some particular property owners.

- C. Andy Busch testified at the October 11, 2007, ZBA meeting, as follows:
- (1) In 1993 the National Transportation Safety Board indicates that pipelines carrying petroleum and other hazardous material transported 590 billion ton miles and had 210 accidents.
 - (2) In 1993 the Bureau of Transportation Statistics state the incidence of hazardous incidents from truck traffic were somewhere around 900 per month therefore 4 times as many in a month involved truck traffic versus one year by pipeline.
- D. Matt Anderson, Pipeline Integrity Specialist for Ameren, testified at the October 11, 2007, ZBA meeting that one of the concerns of his company about the possible 350 foot impact radius where nothing could be built is that it would make it considerably more difficult for any pipeline operator to secure any easements for any new pipeline that would be installed or relocated.
- E. Herb Schildt, 398 CR 2500N, Mahomet, testified at the October 11, 2007, ZBA meeting, as follows:
- (1) The land that he and his wife own will be affected by the proposed amendment because Peoples Gas has storage leases on it although there are currently no pipelines or injection wells on or near their property.
 - (2) He said that these are longstanding agreements whose stipulations are well understood.
 - (3) He stated that he does understand the County's desire to establish some guidelines related to pipelines.
 - (4) He asked if it is reasonable and proper to use the impact radius formula defined by the Department of Transportation to determine zoning setbacks. He said that given that it results in extremely large setbacks this is a crucial question.
 - (5) He said that the impact radius formula presented in Title 49, Part 192 of the Code of Federal Regulations and the 2006 version indicates that these regulations define rules that a pipeline operator must follow and he sees nothing within these regulations that pertains to the landowner.
 - (6) He said that Title 49, Part 192 defines obligations on the pipeline operator including the need to mitigate risk and is not an obligation on the landowner to mitigate this risk.
 - (7) He stated that if Case 583-AT-07 would severely restrict by-right zoning permits it would reverse this obligation because it would effectively place the responsibility of risk mitigation on the landowner by denying him or her the use of what can be a very large portion of land.
- F. Lou Wozniak testified at the November 29, 2007, ZBA meeting as follows:
- (1) He made a calculation of the probability of a pipeline accident occurring.

- (2) He made certain assumptions that one may or may not agree with.
 - (3) He looked back at the last ten years and he noted that there was one explosion that left a crater and scorched a house but nothing has happened since that time.
 - (4) Since that time Peoples Energy has started a maintenance program where they load pipes with water and watch for a decrease in pressure overnight and they do this every 5 years or so on a rotation basis.
 - (5) One could guess that the probability of an accident happening now has been greatly reduced compared to the probability before this maintenance program went into effect.
 - (6) He found that someone would be 10 times more likely to be in an auto accident than the chance of a home in the impact radius of the pipeline being subject to a pipeline accident.
- G. A letter was received from Michael Tague on January 29, 2008, that can be summarized as follows:
- (1) Item [B.H.2. of the proposed amendment] should include the following language at the end of the sentence "...without adequate building area outside the potential impact radius."
 - (2) This language is necessary because when [Item 2 of paragraph H] is coupled with [Item 3 of paragraph H] material public safety issues are completely mitigated.
 - (3) A statute that would result in a situation where a lot could not be created that may be partially within the pipeline impact radius but with that part within the pipeline impact radius having no more density of occupancy or activity than before the creation of the lot would be an unreasonable burden on property rights.
 - (4) With no evidence of any benefit and ample evidence of detriment, the ordinance without the [previously suggested language] is not only unsound but legally and constitutionally impermissible.
- H. A letter was received from Michael Tague on October 18, 2007, in which he indicated that all land owners with land inside a PIPELINE IMPACT RADIUS, as determined by the County-wide pipeline map, should be notified of the proposed amendment.
- I. Matthew Anderson, from Ameren Pipeline Integrity Specialists, testified at the October 11, 2007, ZBA meeting that all of Ameren's potential impact radius for their transmission facilities is no more than 110 feet [wide].

GENERALLY REGARDING RELEVANT LAND USE GOALS AND POLICIES

8. The *Land Use Goals and Policies* (LUGP) were adopted on November 29, 1977, and were the only guidance for amendments to the *Champaign County Zoning Ordinance* until the *Land Use Regulatory*

Policies- Rural Districts were adopted on November 20, 2001, as part of the Rural Districts Phase of the Comprehensive Zoning Review (CZR) and subsequently revised on September 22, 2005. The relationship of the Land Use Goals and Policies to the Land Use Regulatory Policies is as follows:

A. Land Use Regulatory Policy 0.1.1 gives the Land Use Regulatory Policies dominance over the earlier Land Use Goals and Policies.

B. The Land Use Goals and Policies cannot be directly compared to the Land Use Regulatory Policies because the two sets of policies are so different. Some of the Land Use Regulatory Policies relate to specific types of land uses and relate to a particular chapter in the land use goals and policies and some of the Land Use Regulatory Policies relate to overall considerations and are similar to general land use goals and policies.

9. The Land Use Goals and Policies for Residential Land Uses appear to be relevant because pipeline facilities exist next to many residential land uses, and new residential land uses are frequently established near pipeline facilities. Land Use Goals and Policies for Residential Land Uses are as follows:

A. None of the Goals for Residential Land Uses appear to be relevant to the proposed amendment, and only Residential Land Use Policy 2.5 appears to be relevant to the proposed amendment.

B. Residential Land Use Policy 2.5 is as follows:

The Zoning Board of Appeals, the Environment and Land Use Committee, and the County Board will only support the development of residential areas separated from incompatible non-residential uses, unless natural or man-made buffering is provided.

The proposed amendment appears to **CONFORM** to Residential Policy 2.5 because:

(1) The amendment will require separation between underground pipelines and lots in any new R-1, R-2, R-3, R-4, R-5, and RRO District.

(3) The proposed amendment will not restrict by-right development, as follows:

(a) On March 12, 2007, ELUC directed staff to prepare a text amendment to ensure land use compatibility and safety near pipelines by restricting development that requires discretionary approval and by-right development near underground pipelines.

(b) Testimony from Tom Puracchio, Michael Tague, Andy Busch, Herb Schildt, Louis Wozniak, and Matthew Anderson at the October 11, 2007, ZBA meeting supports not restricting by-right development.

10. The Land Use Goals and Policies for Commercial Land Uses appear to be relevant because commercial land uses could be established near pipeline facilities. The Land Use Goals and Policies for Commercial Land Uses are as follows:

A. None of the Goals for Commercial Land Uses appear to be relevant to the proposed amendment, and only Commercial Land Use Policy 3.6 appears to be relevant to the proposed amendment.

B. Commercial Land Use Policy 3.6 is as follows:

The County Board will strongly discourage proposals for new commercial development not making adequate provisions for drainage and other site considerations.

The proposed amendment appears to **CONFORM** to Commercial Policy 3.6 because the amendment will eliminate the need to consider Pipeline Impact Radii in commercial site plans by requiring new lots to be located entirely outside any adjacent PIR.

11. The Land Use Goals and Policies for Commercial Land Uses appear to be relevant because commercial land uses could be established near pipeline facilities. The Land Use Goals and Policies for Commercial Land Uses are as follows:

A. None of the Goals for Utility Land Uses appear to be relevant to the proposed amendment, and only the Utility Land Use Policy 7.1 appears to be relevant to the proposed amendment.

B. Utility Land Use Policy 7.1 is as follows:

The County Board, Environment and Land Use Committee, and the Zoning Board of Appeals will coordinate changes in land use with public and private utility systems.

The proposed amendment appears to **CONFORM** to Utility Policy 7.1 because:

(1) The amendment will ensure that both land owners and pipeline operators will be aware of the potential for development in their immediate vicinity.

(2) Staff has prepared a county-wide pipeline map, as follows:

(a) It indicates all natural gas transmission lines, distribution lines between transmission lines and settled areas, all storage lines in gas storage fields, and all hazardous liquid transmission lines, and the Pipeline Impact Radius for all pipelines.

(b) It is for staff reference only and will not be released to the public in any form, as per the following exemption from the Illinois Freedom of Information Act 5 ILCS 140/7 (1) (mm):

Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility or by the Illinois Power Agency.

12. Regarding the General Land Use Goals and Policies:

A. The first, third, fourth, and fifth General Land Use Goals appear to be relevant to the proposed amendment, as follows:

(1) The first General Land Use Goal is:

Promotion and protection of the health, safety, economy, convenience, appearance, and general welfare of the County by guiding the overall environmental development of the County through the continuous comprehensive planning process.

The proposed amendment appears to **ACHIEVE** the first general land use goal because the amendment will protect the health and safety of the County by reducing potential conflicts between underground pipelines and other land uses.

- (2) The third General Land Use Goal is:

Land uses appropriately located in terms of utilities, public facilities, site characteristics, and public services.

The proposed amendment appears to **ACHIEVE** the third general land use goal because the amendment will mitigate or prevent significant impact from pipeline failure on adjacent land uses.

- (3) The fourth General Land Use Goal is:

Arrangement of land use patterns designed to promote mutual compatibility.

The proposed amendment appears to **ACHIEVE** the fourth general land use goal because the proposed amendment will reduce potential conflicts between underground pipelines and other land uses.

- (4) The fifth General Land Use Goal is:

Establishment of processes of development to encourage the development of the types and uses of land that are in agreement with the Goals and Policies of this Land Use Plan.

The proposed amendment appears to **ACHIEVE** the fifth general land use goal because the proposed amendment will encourage development away from pipelines in order to avoid problems of compatibility of use.

- B. None of the General Land Use Policies appear to be relevant to the proposed amendment.

DOCUMENTS OF RECORD

1. Preliminary Memorandum dated September 21, 2007, with attachments:
 - A ELUC Memorandum of March 8, 2007
 - B Excerpt of Approved ELUC Minutes of March 8, 2007
 - C Excerpts from Title 49 of the Code of Federal Regulations
 - D Proposed Ordinance
2. National Pipeline Mapping System Map of Transmission Pipelines in Champaign County (annotated, no legend)
3. Letter from Michael Tague, dated October 16, 2007
4. Supplemental Memorandum dated November 21, 2007, with attachments:
 - A Letter from Michael Tague dated October 16, 2007
 - B National Pipeline Mapping System Map of Transmission Pipelines in Champaign County (annotated, with legend)
 - C Figure 6-2: Gas Distribution Facilities from the Preliminary Draft of the Existing Conditions and Trends Report of the Champaign County Land Resource Management Plan (amended)
 - D Figure 6-3: Non-Water Well Locations from the Preliminary Draft of the Existing Conditions and Trends Report of the Champaign County Land Resource Management Plan (amended)
 - E Revised Draft of Proposed Ordinance based on ELUC direction, dated November 21, 2007
 - F Alternative Revised Draft of Proposed Ordinance, dated November 21, 2007
5. Letter from Michael Tague, received on December 4, 2007
6. Supplemental Memorandum dated January 25, 2008, with attachments:
 - A Email from Patrick Gaume, Senior Staff Engineer, dated January 10, 2008
 - B Letter from Louis Wozniak, dated January 9, 2008
 - C Preliminary Draft Finding of Fact for Case 583-AT-07
7. Supplemental Memorandum dated May 23, 2008, with attachments
 - A Revised Draft Amendment to the Zoning Ordinance
 - B Letter from Tom Puracchio, Manager of Gas Storage, Peoples' Gas, dated July 7, 2006
 - C Letter from Michael Tague received on January 29, 2008
 - D Excerpt of Minutes from the July 13, 2006, ZBA meeting (included separately)
 - E Minutes from the November 29, 2008, ZBA meeting (included separately)
 - F Revised Draft Finding of Fact for Case 583-AT-07

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 Zoning Ordinance Amendment requested in **Case 583-AT-07** should *{BE ENACTED/NOT BE ENACTED}* by the County Board in the form attached hitherto.

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

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street

Urbana, IL 61801

DATE: November 29, 2007

PLACE: Lyle Shield's Meeting Room

1776 East Washington Street

Urbana, IL 61802

MEMBERS PRESENT: Doug Bluhm, Dennis Goldenstein, Debra Griest, Joseph L. Irle

MEMBERS ABSENT : Roger Miller, Jon Schroeder, Richard Steeves

STAFF PRESENT: John Hall, JR Knight, Leroy Holliday, Eric Thorsland, Pius Weibel

OTHERS PRESENT : Herb Schildt, Michael Tague, Tanna Fruhling, Louis Wozniak, Hal Barnhart, Matthew Anderson, Dave Spillers, Neil Malone, Frank Kamer

1. Call to Order

Mr. Griest called meeting to order at 6:34pm.

2. Roll Call and Declaration of Quorum

The roll call was taken and a quorum declared.

Mr. Bluhm moved, seconded by Mr. Irle to receive other information. Motion carried by voice vote.

Mr. Weibel read Resolution 6278 Honoring the retirement of Dennis Goldenstein from the Champaign County Zoning Board of Appeals.

3. Correspondence

None

4. Approval of Minutes

None

5 Continued Public Hearing

46 Case 583-AT-07: Petitioners: Zoning Administrator Request: 1. Amend Section 3.0 Definitions to

11-29-2007

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 add "GAS PIPELINE"; "HAZARDOUS LIQUIDS PIPELINE"; "PIPELINE IMPACT RADIUS".

2

3 2. Add new paragraph 4.3.4 H, that does the following:

4 a. Identifies the PIPELINE IMPACT RADIUS for a HAZARDOUS LIQUIDS PIPELINE to be
5 150 feet.

6 b. Identifies the PIPELINE IMPACT RADIUS for GAS PIPELINE to be identical to the
7 potential impact radius as defined by Title 49 of the Code of Federal Regulations (FCR),
8 Part 192.03 which is based upon maximum allowable operating pressure in the Pipeline segment in
9 pounds per square inch and the nominal diameter of the pipeline in inches. The PIPELINE
10 IMPACT RADIUS for a GAS PIPELINE is specific to each pipeline. Typical PIPELINE IMPACT
11 RADIUS for GAS PIPELINE in Champaign County is 350 feet or more.

12

13 c. Prohibits the following within any PIPELINE IMPACT RADIUS:

14 (1) Creation of a new lot.

15 (2) The establishment of any USE other than AGRICULTURE or an AGRICULTURE
16 ACCESSORY USE.

17

18 Mr. Hall said that there is a new memo which gives an update also attached is a letter from the Farm Bureau
19 in support of the idea of the pipeline amendment and draft minutes dated October 11, 2007, but those
20 minutes are not for approval tonight. Mr. Hall said the memo in the mailing has a couple of revised maps
21 and he is still working on more. He said that he has some comments back from the pipeline operators and
22 had some suggestions for improvement of the draft language on technical issues. He said that the idea of the
23 Attachment E and Attachment F on the November 21st memo was to change the direction from the proposed
24 amendment to find a way to achieve ELUC's direction while still allowing some portions of lots to be
25 within the potential impact radius. Mr. Hall said that the new version of Attachment E goes more on
26 ELUC's direction and does not have an exemption for new by-right lots to be created within the potential
27 impact radius so Attachment E is more restrictive than what the Board looked at the first time and the
28 deletions are indicated there. He said that Attachment F is an alternative version that violates the guidance
29 that ELUC gave staff and would allow by right lots to be created that are within the potential impact radius

1 partly or completely. He said both Attachment E and F include the requirement for notice to be given for
2 any permit that is in a pipeline impact radius. He said that Attachment F would allow entirely new by right
3 lots to be created in the potential impact radius while Attachment E would not allow that and this Board
4 should follow its mind in considering a recommendation to ELUC. Mr. Hall said the Board may decide to
5 follow the guidance from ELUC or the Board may consider the testimony and may recommend something
6 else other than what ELUC asks for. He said that we will have a Finding of Fact for this case at the next
7 hearing. He said that if the Board is going to do something other than what ELUC directed than give staff
8 the guidance it needs to tailor the finding so ELUC will understand the recommendation.

9

10 Mr. Hall said that on page 2 of the November 29th memo it shows a table that summarizes staff's work
11 contacting the gas pipeline companies in the area. He said that he sent out letters and did some follow up
12 calls and some had responded back with specific data regarding pipeline pressure and diameter and hoped at
13 the next meeting to have a map which is a kind of map staff would use in the office which will show
14 sections, pipelines and estimated potential impact radius. He said that this map will be used to implement
15 the regulations and will not be used by the public to look at or for the public to receive copies. He said that
16 once a zoning application is made and they look at the map and check to see if there is a likelihood that the
17 property is in a pipeline impact radius and if it is we give the contact name to the applicant so they can
18 contact the pipeline operator who is willing to share that information with someone who has the property
19 the property in the potential impact radius. He said that they are concerned that we don't share the
20 information indiscriminately with people coming in with inquiries so we need to have a detailed map so we
21 are not making avoidable errors and we hope to have this by the next meeting.

22

23 Ms. Griest asked Mr. Hall if one of the concerns besides sharing that information in addition to sharing the
24 pipeline company private information if this has anything to do with national security.

25

26 Mr. Hall said that the Freedom of Information Act has been changed to give discretion so we do not have to
27 honor those requests in regards to facilities like that. He said that the map that staff is going to prepare will
28 have that statement on the face of it so staff will be able to react properly when requests like that are made.
29 Mr. Hall said that no pipeline operator he had talked to would refuse anyone whose property would be

11-29-2007

DRAFT SUBJECT TO APPROVAL DRAFT

ZBA

1 affected by these proposed regulations but they want to make sure that they are talking to an actual property
2 owner and not to someone who is out fishing for information.

3

4 Ms. Griest asked if the Board had any questions for Mr. Hall and there were none.

5

6 Mike Tague said that he had spoken with Mr. Doenitz, a member of ELUC and asked him if he meant if
7 someone had a lot in which part of it was in the impact area and there was suitable building area outside of
8 the impact area is that something he would want a text amendment to prohibit. He said that Mr. Doenitz
9 said that was something that he hadn't thought about carefully and he would like to see the ZBA use
10 judgment in completing their Finding of Fact. Mr. Tague said at least one County Board member would like
11 for the Board to use their conscience when all the facts are heard to determine whether or not lots should be
12 in the impact area or look at the facts and benefits as well as burdens to land owners and the cost and then
13 make a recommended text amendment that will do that. He said that as exemptions develop staff recognizes
14 they need to provide ELUC with useful information rather than marching to a tune on an initial direction.
15 He said that when you look at H.2 and that language it said something to the affect that no lot without
16 adequate building area outside the pipeline impact radius shall be created in the R-1, R-2, R-3, R-4, R-5 or
17 RRO District that then deals with the safety issues based upon reasonable probabilities of occurrences and
18 damages. Mr. Tague said but on the other hand it does not restrict the properties to make it useless or
19 unsuitable for R-1, RRO or other uses that would be applicable. He said in the Bateman situation weighing
20 all the pros and cons it was determined this was an appropriate area for an RRO under appropriate
21 circumstances. Mr. Tague said that additional testimony as we go forward and the comments that were fore
22 stated should be looked at with that concept in mind as the Board makes its determination.

23

24 Ms. Griest asked the Board if there were questions for Mr. Tague and there were none.

25 Ms. Griest asked staff if there were questions for Mr. Tague and there were none.

26

27 Herb Schildt read a prepared statement although he did not submit it for the record. Mr. Schildt said that
28 both revised draft of 583-AT-07 are improvements from the original draft. He said that the alternative draft
29 in Attachment F is the better of the two drafts. He said that this version fully exempts by-right lots and

1 although he believes that the use of the impact radius formula for zoning is fundamentally flawed for the
2 reasons he stated in the previous meetings, the alternative draft of 583-AT-07 does preserve the
3 fundamental by-right rights for all land owners and he sees this as an important step forward.

4

5 Ms. Griest asked the Board if there were any questions for Mr. Schildt and there were none.

6 Ms. Griest asked staff if there were any questions for Mr. Schildt and there were none.

7

8 Louis Wozniak said that he is in support of what Mr. Tague had in the letter he mailed to everyone and also
9 believes that potential impacted land owners be notified like the pipeline companies. Louis Wozniak said
10 that he spoke with Mr. Hall regarding the definition of nominal. He said that nominal means by name, Mr.
11 Hall nominally is John Hall. He said a 2X4 is nominally 2inches by 4inches that is the nominal dimension.
12 He said that a 10 inch pipeline is nominally 10 inches not 10.1 or 10.4 or something like that. He said that
13 he noted that the nominal diameter used in a determination of a pipeline impact radius is the approximate
14 diameter of the pipe. He said that you can't argue with that but you can make it not arguable at all by saying
15 nominal diameter, a 10 inch pipe is 10 inches, a 2x4 is 2inches by 4inches although it is not. Mr. Wozniak
16 said that the Farm Bureau letter begins by saying that it is supportive of the efforts of the Zoning Ordinance
17 then it qualifies that by saying they believe that an amendment encompassing a reasonable interpretation of
18 federal guidelines and he thinks that qualifies what they are trying to say. He said that he believes that what
19 he read so far is overly restrictive and not a reasonable interpretation. Mr. Wozniak said that he made a
20 calculation of the probability that if there would be an accident and he made certain assumptions that one
21 may or may not go with. He said that he looked back at the last ten years and he noted that there was one
22 explosion that left a crater and scorched a house but nothing has happened since that time. He said that
23 since that time Peoples Energy has taken a maintenance type program where they load pipes with water and
24 watch for a decrease in pressure overnight and they do this every 5 years or so on a rotation basis. Mr.
25 Wozniak said that one could guess that the probability of an accident happening now has been greatly
26 reduced compared to before this control program went into effect. He said that he used the distance of
27 pipelines and then went to the internet for accident statistics that had personal injuries and he came up with
28 the probability of having an accident to a pipeline to be a factor of ten less than the probability of someone
29 getting injured in a car accident. He said again, he made some assumptions that someone could argue with

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1 but he found that someone would be 10 times more likely to be in an auto accident than a home being in the
2 full impact radius of the pipeline.

3

4 Ms. Griest asked the Board if there were any questions for Mr. Wozniak and there were none.

5 Ms. Griest asked if there was anyone else who wished to sign the witness register and there were none.

6

7 Mr. Hall said that he did get some suggestions for some wordsmithing regarding the proposed changes on
8 the amendment and the changes that were discussed would relate whether the Board recommend
9 Attachment E or F. He said that only one of the changes that we are discussing relate to the comments here
10 tonight and those changes relate to the very unuseful way that he tried to handle nominal diameter in the
11 draft amendment and the sentence in the draft probably would not help decrease arguments in the future.

12 Mr. Hall said that he is looking for guidance from the Illinois Commerce Commission to get their
13 understanding on what nominal diameter as applied in this area of their regulation. He said that he would
14 hope to get some kind of guidance from the Illinois Commerce Commission maybe that would be
15 definitive.

16 Mr. Hall said that the other changes do not relate to anything that anyone has given testimony on but from a
17 staff level he would like to have some sense to where this Board is leaning towards either Attachment E or
18 Attachment F because that is material to the concerns of the citizens that are here tonight and also so that a
19 Finding of Fact could be constructed accordingly. He said that Attachment F has the exemption in it that
20 completely exempts new by right lots from these regulations. He said that it does not exempt someone if
21 they creates a by-right lot and it is within the pipeline impact radius they would get a notice of the impact
22 radius and could follow up with the pipeline operator if they wished to. He said but the Attachment E does
23 not provide for that except in a case of a variance so the Board may get a lot of variances if they recommend
24 Attachment E. Mr. Hall said that the Board could recommend it to be a prohibited variance but prohibited
25 variances cause concern because something that is prohibited means that there is no alternative to that and
26 the Board may want to think hard about recommending a prohibited variances.

27

28 Ms. Griest asked the Board if there was discussion regarding the alternative.

29

1 Mr. Bluhm said that he liked Attachment F because of the by-right lot and the need to still have notification.

2 He said that with the RRO everything has to be looked at and public safety has to be considered.

3

4 Mr. Goldenstein said that he concurred

5

6 Mr. Irle said he concurred.

7

8 Mr. Hall said that if Attachment F is recommended Attachment E would still be entered in as testimony so
9 that ELUC would know that one exemption.

10

11 Ms. Griest said that initially she liked F because the ordinance allows the ZBA the flexibility to make
12 choices but she is not sure if she clearly understands what F provides and that means that the by right lots
13 are not required to have a buildable area outside the impact zone.

14

15 Mr. Hall said no.

16

17 Ms. Griest said that is her main concern that they must have enough buildable area outside the impact zone
18 otherwise she would not have a problem with them creating by right as long as they have adequate buildable
19 area outside the impact zone.

20

21 Mr. Hall asked Ms. Griest if she would have a problem allowing the lots if adequate buidlable area is
22 outside the impact zone.

23

24 Ms. Griest said no as long as the buildable area is outside which is consistent with the Bateman decision but
25 she is uncomfortable with the by right being allowed to have all the buildable area in the impact area when
26 the R-1, R-2, R-3, R-4, R-5 and RRO Districts cannot.

27

28 Mr. Hall said that the by right is a little different than coming to the County Board and asking them for a
29 rezoning.

1
2 Ms. Griest said that in the interest of public safety if that is their objective that people shouldn't be more or
3 less safe buying a by-right lot as opposed to any other lot that is the dilemma she is struggling with.

4
5 Mr. Hall said that when he was struggling with this in the office that he finally decided that if you are going
6 to let part of the lot be in the impact radius realizing how much of a burden this will be on the office to
7 enforce this, once you let some part of the lot be in the impact radius why not accept the fact that people are
8 doing that and as long as the staff has made them aware of it that's where the obligation ends. He said that's
9 all we could do rather than trying find a way they can build outside the pipeline impact area and if they can't
10 then it's not a good lot. He said that if you read all the time the Board is going to allow construction to
11 continue to occur in a pipeline impact radius given the limited number of by right lots it maybe feasible to
12 just provide notices and let it be at that. He said that in the minutes from the last hearing, the representative
13 from Ameren was concerned about the more difficult these requirements become for land owners the more
14 difficult it would be for the pipeline operators to get new easements and put in new pipelines and he raised a
15 valid concern. Mr. Hall said on page 21 lines 13, 14 and 15 he is not arguing the probability of a pipeline
16 accident because staff believes that there is a small probability.

17
18 Mr. Bluhm said that when dealing with a RRO we are talking about 10 to 15 homes but with by-right lots
19 there are fewer homes and more spread out and we still have to consider how much buildable area there is
20 outside the impact area. He said that one would hope that with the by-right lots they are being notified
21 which is more than what they did before and it is their decision whereas if a developer is putting in a RRO
22 he is deciding how those lots are being created and it is a difference there because you are getting a lot
23 based on the developer point of view.

24
25 Ms. Griest said that she completely understands that perspective if you are building your by right lot and it's
26 your home and you configured the by-right knowing this when you were configuring the lot. She said that
27 what she is concerned about is the owner who creates the by-right lots and sells them to an unsuspecting
28 buyer and then that buyer goes to get a permit that's the point when the buyer get's the notice and it does
29 not come any sooner so they don't make an informed choice. She said that if it is for someone's personal

1 residence then fine builder beware especially if they knew that going in that is your choice but she is
2 looking at the unsuspecting consumer who buys the lot with all of that space only to find out that part of
3 that is not a reasonable building area until after they own it.

4

5 Mr. Hall said that he doesn't know how often that is going to happen where someone creates a lot and then
6 the person comes in to get an application finds out about the potential impact radius and then decide they
7 like to add more area to their lot to give them a buildable area outside the potential impact area he doesn't
8 know how often that land would not be available but it is bound to happen.

9

10 Mr. Bluhm said that they would need a variance if it will be increased to over a two acre lot.

11

12 Mr. Hall said that three acres is the maximum lot size and depending on how they configure the lot, if it is
13 200 feet wide and providing land can be purchased they should be able to get at least an acre outside the
14 pipeline impact radius.

15

16 Ms. Griest said that it would be nice if the realtor or the community when they are listing these parcels
17 would actually have better disclosures on that but the Board cannot force that.

18

19 Mr. Bluhm said that maybe the information would be on the title work but if the pipeline is across the road
20 it may not be.

21

22 Ms. Griest said that she could be swayed on this point she just wanted to have this discussion on the topic.

23

24 Mr. Hall said that in regards to the direction staff would take after tonight, we could use Attachment F as a
25 template for the next version that you would see and that would have the more technical word changes that
26 he had suggested and then the Board would then understand that F is to be stricken or reinforced as the
27 Board sees fit but it sounds like we could proceed using Attachment F.

28

29 Ms. Griest said that she would support F as the model.

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1
2 Mr. Hall said that if the Board goes with the Attachment F it makes the case much easier to the extent that
3 it's not a clear exemption for new by right lots than things become more complicated but with that we could
4 get back on the case and get a Finding on Fact for the next hearing so it could be tailored like Mr. Tague has
5 suggested.

6
7 Ms. Griest asked Mr. Hall if he could determine and provide an estimate of how many by right lots are
8 created per year.

9
10 Mr. Hall said that there is no easy determination to do that.

11
12 Ms. Greist asked Mr. Hall if there is a proposed date for a continuance.
13
14 Mr. Hall said that the earliest that this case can come before the Board for final action would be January 31,
15 2008.

16
17 **Mr. Bluhm moved, seconded by Mr. Goldenstein to continue this hearing to January 31, 2008.**
18 **Motion carried by voice vote.**

19
20 6. **New Public Hearing**

21
22 There was no new public hearing.

23
24 7. **Staff Report**

25
26 Mr. Hall said that there is no staff report.

27
28 8. **Other Business**

29

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1 Mr. Hall said that March 27, 2008, is a County Board Meeting but they may have the new meeting room
2 completed by then but we could reserve this room for April 3, 2008 in case the meeting room is not
3 complete.

4

5 Ms. Griest said that a Special Dinner Meeting for Mr. Goldenstein will be December 13, 2007, at 5:00PM.
6 She said that the regular meeting will follow at 6:30PM.

7

8 Ms. Griest introduced Eric Thorsland as the new Zoning Board of Appeals member replacing Mr.
9 Goldenstein who term was up on November 30, 2007.

10

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

12

13 There was no audience participation.

14

15 **10. Adjournment**

16

17 Ms. Griest declared meeting adjourned at 7:29PM.

18

19 Respectfully Submitted

20

21 Secretary of Zoning Board of Appeals

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1
2 Mr. Hall said this case will go to the County Board in August and everyone would receive notice.
3

4 **6. Continued Public Hearing**
5

6 **Case 520-AM-05 Petitioner: Gene Bateman, owner Dave Phillippe, agent HDC Engineering Amend**
7 **the Zoning Map Request: Amend the Zoning Map to allow for the development of five single family**
8 **residential lots in the AG-1 Agriculture Zoning District by adding the Rural Residential Overlay**
9 **(RRO) Zoning District. Location: a 23 acre tract in the North 631 feet of the East 1042.7 feet and the**
10 **South 545 feet of the North 1960 feet of the East 641 feet, all of the 2of the Northeast 3 of the Section**
11 **29 Township 21 north, Range 7 East of the Third Meridian, Champaign County, Illinois.**
12

13 Mr Hall stated this case was continued from the April 13 meeting and the approved minutes are attached
14 and the minutes approved tonight from the March 30, 2005 meeting were the first meeting for this case. Mr.
15 Hall distributed a map and letter from Mr. Bateman and People Gas.
16

17 Ms. Griest asked if there were questions for Mr. Hall and there were none.
18

19 Ms Griest called Mr. Gene Bateman.
20

21 Mr. Michael Tague stated he is an attorney and represents the Mr. Bateman's.
22

23 Mr. Tague stated that Dave Phillippe would be presenting a new site plan that attempted to address the
24 concerns raised by other witnesses and the board. The concerns centered around several things including a
25 concern about visibility at the corner and the new site plan will show a rather sizable visibility triangle to
26 completely mitigate problems that could be associated with visibility and end up with a better situation than
27 having corn all the way to the corner. He explained that there was a concern with the number of mailboxes
28 and driveways and they have proposed to mitigate those by essentially having double entrances for two of
29 the lots and double entrances for two of the other lots so the site plan goes from five driveways down to three
30 and covenants will be put in the deeds so that there would have to be double mailboxes on the double
31 driveway so that it goes from five mailboxes down to three. The drainage tile has been located and is drawn
32 on Mr. Phillippe's map and initially there was a request for a 75 foot easement by the drainage district so
33 that's drawn in there and they will comply with that but there may have been additional comments from the
34 drainage district that they may want an 80 foot easement and we could provide with that too if that five feet
35 were significant. He said that Mr. Bateman has contacted the Highway Commissioner for Newcomb
36 Township who has no objection with this development. Mr. Tague said that whether this goes through or not
37 he hoped that some of the concerns relative to the condition of the road will be met with the road
38 commissioner putting the oil and chip necessary for the existing roadway. Mr. Tague also stated that Mr.
39 Bateman also received the letter from People's Gas of July 12th and had printed out part of the relevant
40 regulations but he would need a chance to verify the math on the impact zone.
41

42 Ms Griest called Mr. Dave Phillippe

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- 1 Mr. Philippe said he did not have any more to add to what Mr. Tague has already stated.
2 Mr. Phillippe distributed maps for the Board to review. Mr. Phillippe said he would answer any questions
3 the Board may have.
4
5 Mr. Irle asked if Mr. Phillippe would comment on statements made at the last meeting about homes that are
6 built too close to the pipeline.
7
8 Mr. Phillippe stated he had not looked into the regulations regarding separation of homes from the pipeline
9 but it is incumbent upon the pipeline company to protect the home owner.
10
11 Mr. Bluhm referenced the map and asked Mr. Phillippe if the field tile is a 24 inch tile.
12
13 Mr. Phillippe answered yes.
14
15 Mr. Bluhm asked if the 24 inch tile enters and exits the property.
16
17 Mr. Phillippe answered yes
18
19 Mr. Hall answered tract 1 seems to have the largest difference between the center line and the line of the
20 swale and the field tile. He said he didn't know if the Board had to see a drainage easement for the swale
21 itself rather than the tile but it looks like the proposed field tile easement does not include the center line of
22 the swale.
23
24 Mr. Phillippe agreed and said it appears that the tile is diverting from the centerline of its greatest location
25 although it was not located at that exact point so it could vary from what's shown. He said the intent is to
26 create a non-buildable area that would be defined by the dashed lines that would encompass the tile and the
27 waterway and the highwater area that's defined where the water would go over the road if the drainage
28 structure would become full or inoperable.
29
30 Ms Griest asked if there were any additional questions and there were none.
31
32 Mr. Tom Puracchio stated he is a manager of gas storage for People's Gas north of Mahomet. He said he
33 worked for people's Gas for twenty two years and was in field storage for five years in Fisher, Illinois. Mr.
34 Puracchio stated they have over 190 wells in the area. He said the natural gas is stored about 4000 feet below
35 the surface and the pipelines are from 3 to 5 feet deep and about 40 square miles and covers the Brown, East
36 Bend and Condit Twp area including the property in question. He said that it covers some parts of Blue
37 Ridge Twp. in Piatt County. Mr. Puracchio stated they began drilling in 1959 and injecting gas in 1960. Mr.
38 Puracchio said they have about 70 miles of gas pipelines, water pipelines, and alcohol or methanol pipelines.
39 Mr. Puracchio said the purpose of his attendance tonight is to provide information to the Zoning Board and
40 the potential land owners and residents with information so they make a more informed decision on the
41 property. He said he would like the Peoples Gas easements rights be reflected on public record and on all
42 plats associated with the property. He said that Peoples Gas has the right to enter the property and access
those lines and wells and maintain them or install new ones and it is important that the Board and the

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1 property owner is aware of that. Mr. Puracchio said most of the lines are 12 inches and others are 8 $\frac{3}{4}$ inches
2 with a maximum of 2000 psi.

3

4 Mr. Bluhm asked Mr. Purracchio how often do they test those lines.

5

6 Mr. Puracchio answered about every five years.

7

8 Mr. Irle asked what is the life of the pipe.

9

10 Mr. Puracchio said it's hard to say but some has been down since the 1920's.

11

12 Ms. Griest asked if there were any additional questions and there were none.

13

14 Doug Turner Newcomb Twp. Drainage District representative said he is not here to oppose or support the
15 project but is here to ask what we would like to have if this proposal is approved. He said that instead of the
16 75ft easement the drainage ditch commissioners would like to see an 80ft easement. Mr. Turner said the 80ft
17 would fall in line with the flood area and would like to see this change in writing if this project is approved.
18 He went on to say they would not want any permanent structures or trees and the grass maintained as well as
19 no hookups to the tile without written approval. Mr. Turner said they would like the Bateman's to grass the
20 entire waterway to help with drainage not just the lots. He said he believes that Peoples Gas does a good job
21 and tries to work with people but he believes that the homes would be too close if they were put in the
22 impact area.

23

24 Mr. Irle asked Mr. Turner if there were any catch basins along the district tile.

25

26 Mr. Turner answered no.

27

28 Mr. Irle asked Mr. Turner if there are any lateral tiles.

29

30 Mr. Turner said he's not sure but believes there is a 15 inch. lateral in a proposed area.

31

32 Mr. Irle asked Mr. Turner if there any tile blowouts other than the eastside by the bridge along tract 4.

33

34 Mr. Turner said that's the only one he's aware of but its a few years since any other repairs were done on this
35 tile.

36

37 Ms. Griest asked the Board if there were any additional questions and there were none.

38

39 Mr. Wozniak said he like to correct a statement regarding distance and 200 meters for a class 2 high impact
40 distance area not 300 meters was the correct distance. He said Mr. Batman is not in class 2 so that does not
41 apply to him.

42

Ms. Griest asked if there were any additional questions and there were none.

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1
2 Ms. Griest said that concludes the witness register for this case.
3
4 Mr. Hall said the Board received a lot of new evidence this evening and did not get a chance to review it in
5 great detail and those who provided the information was worked hard in trying to get to you. He said Mr.
6 Bateman would like some direction of how to proceed. Mr. Hall said he would advise not taking any action
7 until you take time and review all the material and come back at the next available meeting date. Mr. Hall
8 said any guidance you can give Mr. Bateman or myself would be appreciated. He said if you feel that the
9 plan needs revising Mr. Bateman can begin working on it.

10
11 Ms. Griest asked if the board has any comments or discussion at this time.
12

13 Mr. Hall said the board should make of this information what it can. Both of the petitioners have were
14 notified in the beginning that there are gas lines in this area and at the time it was not clear what that meant.
15 Mr. Hall said he'd like to know what the regulations say about this density versus a greater density but when
16 it comes down to it the pink area is the impact area no matter if it's one house or five houses or fifteen
17 houses.

18
19 Mr. Hall said tract one has buildable area outside the pink area but tract three is entirely in the pink area,
20 tract four is entirely in the pink area , tract two is not entirely in the pink area but if it's not in the pink area it
21 is the area it's in the high water area of the drainage swale.

22
23 Mr. Irle said the pink area was developed by the United States Department of Transportation and the impact
24 area is based on actual events and hr feels it would be less than responsible not to take this under
25 consideration in dealing with the impact area.

26
27 Mr. Hall asked if the concern is that any lot have a realistic buildable area outside the pink area.

28
29 Ms. Griest stated that driveways and structures would not be permitted across the easement for drainage tile.

30
31 Mr. Bluhm stated he is concerned about the weight on the drainage tile area and especially when there is
32 digging and using a backhoe. He said the shaking of those tracks can crush the tiles especially during
33 construction.

34
35 Mr. Hall said these will be plat act lots and there won't be a platted subdivision, and the board could require
36 providing notice to purchasers of these lots. He said that even if it's in the pink area and it's in this part of
37 the county then they should know there is a Manlove storage area below them. He said that like with any lot
38 that would have some part in the pink area the Board could require some covenant or notice to all
39 purchasers.

40
41 Mr. Schroeder said he farms over a pipeline and is not sure how deep it is in the ground but they were two
42 blowouts in twenty years on it when they first put it in because they put it in wrong or something but they are
in contact with us. He said on both ends of his property there is a pressure gage that they know of and they

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1 would notify us if it would be immediate property damage.

2
3 Ms. Griest asked Mr. Schroeder if there were any issues he would like to see resolved before this case comes
4 back.

5
6 Mr. Schroeder said he has never experienced anything like this before. He said on his property his tile runs
7 parallel with the pipeline so he never had to cross a tile.

8
9 Mr. Blum said he is concerned about the 90 foot easement and feels we need more clarification because if
10 the easement can be increased if another line is installed when does it end.

11
12 Mr. Goldenstein asked Mr. Puracchio how deep the pipeline is.

13
14 Mr. Puracchio answered approximately 3 to 5 feet.

15
16 Mr. Irle asked Mr. Puracchio how old is the pipeline on the Bateman property.

17
18 Mr. Puracchio answered it was installed in the 70's.

19
20 Mr. Irle asked Mr. Hall if there were any structures on the property at this time.

21
22 Mr. Hall answered yes. Mr. Hall went on to say the Board demonstrated a concern about homes being built
23 in the pink area as well as homes constructed along the drainage district tile area. He said there is a request
24 for a grass waterway through the whole property.

25
26 Mr. Irle asked Mr. Hall if the property is tillable.

27 Mr. Hall answered yes. Mr. Hall said if the petitioner took another look at tracts 2 and 3 he may find more
28 farm ground left there in the revised site plan.

29
30 Ms. Griest said the next available slot is August 31.

31
32 Mr. Blum moved, seconded by Mr. Irle to continue Case 520-AM-06 to August 31, 2006. The motion
33 carried by voice vote.

34
35 Mr. Schroeder moved, seconded by Mr. Irle for a 5 minute recess. Motion carried by voice vote.

36
37 Ms. Griest called the meeting back to order

38
39 **Case 542-AM-05 Petitioner: Louis and Jo Ann Wozniak Request: Amend the Zoning Map to allow for**
40 **the development of 35 single family homes in the AG-1 Agriculture Zoning District by adding the**
41 **Rural Residential Overlay Zoning District to the subject property.**

42
43 **Location: An 81.5 acre tract of land located in the E ½ of SW ¼ of Section 22 of Newcomb Township**
and located on the west side of II. Rt. 47 between CR 2600N and CR 2650N

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1
2 Mr. Hall stated the subject property was not best prime farmland, so the conditions of any approval would
3 just be that the land is suitable for this number of lots and is compatible with surrounding agriculture. He
4 explained that with an RRO of this size the Summary of Evidence is pretty extensive and the department
5 received just this week a packet of information from People's Energy regarding the pipelines that are on
6 three sides of this property on the north, east, and south and there is also an adjacent well on the property to
7 the west. He explained that the board members got that submittal, and there were 10 extra copies on the table
8 tonight and more copies could be made for anyone who didn't get a copy although on the copies for the
9 public the map was in black and white so it wasn't quite as easy to read.

10 Mr. Hall stated that a late request was sent to the engineer to do an engineering review on this proposed
11 subdivision. He explained that the engineering review is primarily related to the existing swale and the
12 proposal to relocate it and carry the drainage in the roadside ditches, but since the request was sent out late
13 and the engineering review is not back yet. He also explained that he had a concern at the north end of the
14 property where the swale is proposed to be relocated on Lots 115 and 116. He explained that on these and
15 some of the other lots the swale is going to be filled and he was concerned about what that might mean for
16 septic suitability. He said that everything he can find in the Soil Survey and the Soil Potential Ratings
17 indicates that a lot of the soil on this property is wet soil. He explained that the Petitioner has done some
18 perc tests at three locations or maybe five locations and but he did not know how good perc test results are at
19 indicating wet soils. He explained that if this moved on to a full subdivision there would have to be some
20 kind of a soil investigation on each lot and he presumed that might find something different.

21 He concluded the brief overview by stating that the information in regards to the gas pipelines might mean
22 that this plan needs to be revisited but hoped that the board could give some direction. He also summarized
23 the tables that compare this to typical conditions on page 14 of the Summary of Evidence: for two factors the
24 property is "ideal or nearly ideal" conditions relating to flood hazard status and environmental concerns, for
25 three factors the property is "much better than typical" conditions for road safety, effects of nearby farms,
26 and the LESA score; its "more or less typical" conditions for three factors availability of water, emergency
27 services, and drainage; and "much worse than typical" conditions for two factors septic suitability and other
28 hazards and that's related to the gas pipeline.

29
30 Mr. Knight passed out photos of the subject property to the board members.
31

32 Mr. Hall added that one frontage protest was received on this case so far from a neighbor to the north who
33 had a very small frontage and so that protest by itself would not trigger the supermajority requirement but
34 frontage protests are additive. He also added that the department had received several calls about the case.
35

36 Ms. Griest asked if there were any questions for Mr. Hall and there were none.
37

38 Mr. Louis Wozniak distributed material to the board members and staff. He stated he was the co-petitioner
39 with his wife Jo Ann. He handed out a sheet showing the order of the presentation and with drawings
40 stapled to it.

41 Mr. Wozniak explained that the project location is in Newcomb Township on Rte. 47 approximately four
42 miles north of Mahomet on the west side of the road, section 22. He explained that on the next page is the
proposed layout that is really a concept plan and not even preliminary yet. He noted that there are some 35

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1 lots including outlots and two entrances and that on the drawing north is to the right and Rte. 47 is along the
2 bottom of the page. He also explained that the property is located between CR 2600 on the south and 2650
3 on the north.

4 Mr. Wozniak explained that they intended for this to be a rural subdivision in all terms because they know
5 there are individuals that would like to live in a rural setting, yet are not empowered to own a farm nor
6 willing to or wish to own a farm. He explained that the lots range anywhere from 1.2 to 2.8 to 3 acres lots,
7 which is a manageable size for a family and that they would like it to be family oriented and noted that there
8 are a great deal of cul-de-sacs and they are a very safe area for children to play rather than being on the main
9 lane through and make great playgrounds. He stated that he is also discussing this with Mahomet and with
10 Fisher as potential for incorporation with those municipalities.

11 Mr. Wozniak noted on the next page that the subdivision is bordered on the north by a residential area and it
12 is bordered on the west by a farmstead and it is bordered on the east side, north quarter by a farmstead. He
13 explained the area is residential in nature which would explain the residence less than half a mile to the south
14 and the idea of residential is already there and there is nothing new about it with this subdivision. He stated
15 that the work is going to be done by Farnsworth and Farnsworth is a reputable developer and they will meet
16 all zoning regulations of the County and the state. He stated that their preference would be to have it as a
17 County type of rural development.

18 Mr. Wozniak noted a correction he wanted to make to the preliminary memorandum on page 12 where it
19 stated that the property is bordered to the north by a gas pipeline and it is not, there is a water pipeline to the
20 north not a gas pipeline and the gas pipelines are along the east side and south side only. He also
21 commented on the overall ratings on page 14 of the Preliminary Memorandum. He stated that he would not
22 argue with words like "ideal or nearly ideal" nor "much better than typical" but he asked if the "much less
23 than typical" on availability of water was for the County because he knows there areas in the County where
24 you can drill and not get too much. He explained that the subject property happened to be sitting on the
25 Mahomet valley aquifer so he would believe that it is "better than average". He explained that it is being
26 serviced by Mahomet fire department but Mahomet fire department has an agreement with Fisher and
27 Mahomet is about four to five miles away and Fisher is about four to five miles away so it really has two
28 responding emergency units instead of just one. He stated that in regards to drainage he would let the
29 drainage experts fight that one out.

30 Mr. Wozniak stated that gas lines have to be upgraded by Ameren inside Champaign or Urbana so while
31 there is a pink area on this map and the Board might be afraid of pink that is not the purpose because if that
32 were the purpose then if the gas company needs 600 feet on each side they should have gotten an easement
33 of 600 feet on each side but they don't and it's as simple as that. He stated that he should have mentioned in
34 the other case that there was a commentary made in the minutes of the previous case from the previous time
35 and he was quoted as saying that the gas company must remove its lines and the minutes show that's what he
36 said but he did not believe that is what he said but he might have. He explained that what he believed he
37 said is that when the density of homes or when the class location changes then the gas company must
38 increase the safety factor of its lines or move the lines and as he understand it there was at least one case in
39 the Manlove reservoir where a line was actually moved because it was not feasible to upgrade it there and
40 they had to move it. He stated that he fully agreed that they have the easement and the easement they have is
41 over his property and he has no question that they can do whatever they want in that easement but while they
42 are doing that they have to meet the federal regulations and if they can't do it there then they have to get an
easement somewhere else. He explained that they have to meet that and they have a certain period of time

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1 and he thought it is something like two years after a change in class location and after two years they must be
2 in accordance to the regulations. He stated that he did not know if there is a tape that he can look at and
3 correct it but he said it here and if he said it incorrectly he stands corrected and he appreciates catching it
4 but he did not believe that he didn't mean that and he knew that all along that that was the case.
5 Mr. Wozniak said that he was now working on the handout and the rest of his notes are from the material
6 that he received and that everyone received from People's Energy. He stated that he already said something
7 about the potential impact radius and he noticed that People's Mr. Puracchio's memo or notes refer to
8 192.901, which defines the potential impact radius but he did not mention 192.609/611 which specifically
9 says that it is the responsibility of the utility to fix so that they are in accord with the federal regulations. Mr.
10 Wozniak explained that the packet he handed out has the relevant clauses in there so they can be digested by
11 the members of the board. Mr. Wozniak pointed out that there are ten or twelve houses along 47 in the pink
12 area and that actually increases the safety because that line will have to be upgraded if it is not already
13 meeting the specifications so it will actually be a safer place for people like Mr. Kamerer who resides on the
14 northeast corner right across 47 and he is within the pink area and will be safer because the line will be a
15 safer line. Mr. Wozniak also referred to the discussion of noise from venting operations on occasion and
16 this is a critical issue because Chicago could be half supplied on a cold winter's night by Manlove. Mr.
17 Wozniak stated we have public alert sirens that blare out around homes and those at least have to be loud
18 because they have to alert the residents of some impending danger but the pipe at the injection wells he
19 assumed that is where they do the relief because it would not be from the line and those don't have to be
20 noisy. He explained that automobiles have mufflers and mufflers are pretty much standard technology and
21 it's probably \$500 worth of reshaping the port where the gas exits will quiet it down to where it wouldn't
22 disturb anybody. Mr. Wozniak also noted that the frequency of venting was not cited but it states that this
23 can happen and sure homes within the urban setting can blow up and lines can blow up. Mr. Wozniak
24 explained that when the tornado struck Ogden ten years ago there were so many fires and so many leaks and
25 so many torn meters that the power company had to shut off the gas in order to fix them so things can
26 happen. Mr. Wozniak went to their page three comment one that they say that the total easement is 90 feet.
27 He explained that three pipelines, thirty feet a piece, 90 feet, he can multiply but it turns out their pipelines
28 are all within the first 30 or 40 feet along Rte. 47. Mr. Wozniak said look at the implication of what this
29 really means and this means that if they put all their pipelines within 30 or 40 of Rte. 47 then they have three
30 easements, 30, 30, 30. He explained that the grant paper that's recorded does not state where these
31 easements are and there is no dimensioning of them so how they could conceivably come back to a farmer
32 who has a pipeline through the front of his house and say hey my second easement or my third easement
33 happens to go through your bathroom you better remove your sewage disposal, whatever. He stated that if
34 what they say is true, then this could conceivably be done because they did not use those easements, those
35 easements are free, and there are no pipelines there. He also noted that the easement was granted in 1965
36 and in 1980 the easement was renewed and subtracting 65 from 80 gives 15. He explained that he has not
37 checked this out with legal council and he was just giving a presumption at this time but for some reason or
38 another 15 years after the original they renewed it and the easements are not in perpetuity. He continued that
39 from 1980 to 2006 it's been 26 years and the easements have not been renewed and are the easements really
40 still there and is there such a thing as squatter's rights why have they not been renewed again, or reaffirmed?
41 Mr. Wozniak noted on page four the comment number 3, the County subdivision articles and they quote
42 this and give the number, easements shall contain no structure and/or accessory buildings, private or public
easements, ok that sounds reasonable, they have an easement, I keep my house off of it, but what they ask the

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1 board to do is the following: the People's version is prohibit garages, tool sheds, and paving, this means that
2 the farmer with a homestead which has given an easement can't really have a driveway going over it. Mr.
3 Wozniak explained that it turns out that in the plan he very carefully avoided placing any driveways and
4 there's no access to 47 and all access is internal specifically to keep paving off. Mr. Wozniak explained that
5 he did not feel bound to not put a perimeter walking path or a perimeter bicycle path and he stated that he
6 had a perfect right to do that.

7 Mr. Wozniak stated that had a couple other questions on Mr. Puracchio's memo and he was wondering on
8 page 5 there is a list of questions and question 1 is did the board check whether the proposal is consistent
9 with minimum lot requirements. Mr. Wozniak said that is almost derogatory and his experience has been
10 that the board and staff are overly careful about these things. Mr. Wozniak continued with question 2, cul-
11 de-sacs 1300 feet in length; well the proposed plan that was given clearly shows the scale and it shows that
12 there are no cul-de-sacs there are greater than 800 or 900 feet in length. Mr. Wozniak stated that's all and he
13 hoped that it has not been too long and he was open to questions from the board.

14
15 Ms. Griest asked if there were any questions for Mr. Wozniak from the Board.

16
17 Mr. Irle asked if Mr. Wozniak received any payments for easements.

18
19 Mr. Wozniak answered that he did not receive any payment for the easement at this time but that he did not
20 think that the easement continued payment but he was not sure but the person he bought it from may be
21 receiving payment. He stated that for the easement it's reasonable to assume that its where the line is located
22 and there's a gas line, a water line, and an alcohol line, and they are all within the first 30 feet or so, so what
23 are we doing out at 90 feet, why are they claiming they have an easement out there. He stated that it's not
24 specified in the easement agreement where it is but it's only reasonable to assume that if an easement
25 agreement has been performed that the pipeline is on that easement agreement. Mr. Wozniak asked if that
26 answered Mr. Irle's question.

27
28 Mr. Irle stated not quite and it indicated in the easement that's recorded that you should receive a payment
29 and that's why I was wondering if you received a payment or whether you forfeited those in the exchange
30 process.

31
32 Mr. Wozniak stated that at this time he received no payment and that he never questioned that.

33
34 Mr. Goldenstein stated that payment was to be received on or before May 1st each such calendar year at \$45
35 per acre.

36
37 Mr. Irle stated that the petitioner submitted a drainage report on May 20th of this year and was wondering if
38 he was going to submit an updated drainage report because the current report states that there will be 35
39 residences built.

40
41 Mr. Hall stated that 35 residences is the correct number.

42
43 Mr. Wozniak stated that he wanted to add something about the perc test that he did. He explained that he did

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1 one in March when there was water in the ditches and there was ponding on the surface and when he dug
2 down 27 inches there was water there and when he did the perc test the last six inches obviously did not go
3 down but they did just barely meet the six inches in six hours requirement. He explained that when he did it
4 two weeks ago, though, the water just went straight down, it was not a problem, but it was marginal in
5 March.

6

7 Mr. Goldenstein asked Mr. Wozniak how long he had owned the property.
8

9 Mr. Wozniak answered that he and his wife bought it earlier this year and he thought it was in January.
10

11 Mr. Goldenstein asked if Mr. Wozniak knew the pipelines were there when he bought the property.
12

13 Mr. Wozniak answered of course.
14

15 Mr. Bluhm asked Mr. Wozniak if he knew what size the drainage tile under the swale was.
16

17 Mr. Wozniak answered that he inspected the tile when a culvert was put in on CR 2600N and at the time he
18 thought it was a twelve-inch tile. He then went and asked Kevin Furtney, who is the road commissioner, if it
19 was a twelve-inch tile and he said it was a six inch tile. Mr. Wozniak didn't recall that being the case so he
20 went back and dug up pieces of tile that turned out to be twelve inch tile and he went back to Mr. Furtney
21 and said the tile appeared to be twelve inches and Mr. Furtney said that was the settling basin. Mr. Wozniak
22 thought that seemed a little skimpy and maintained that it was a twelve inch tile but admitted he didn't know
23 for sure. Mr. Wozniak added that the tile was in very poor condition because there were pits along the swale
24 where the tile goes under, and this is the usual sign that something is broken and the soil is dumping into it.
25

26 Ms. Griest asked if there were anymore questions for Mr. Wozniak.
27

28 Mr. Wozniak said that the drainage tile he dug up would be replaced and maintained and he said there was
29 no question about that because it would serve double duty because it will also carry the effluent from the
30 property's sumps and things like that.
31

32 Mr. Irle asked Mr. Wozniak if he intended to keep the waterway as it was shown on the map of the Shiloh
33 Swale Subdivision.
34

35 Mr. Hall pointed out that the map Mr. Irle was looking at was from the Natural Resource Report.
36

37 Mr. Irle asked if Mr. Wozniak intended to maintain the tile along the whole length or just along the spot he
38 dug up.
39

40 Mr. Wozniak answered that he would maintain the tile along the whole length. Mr. Wozniak also mentioned
41 that there was one significant difference between the Concept Plan in the Preliminary Memorandum and
42 what he was now planning. He explained that and the plan showed a four acre outlet that was to contain a
detention pond and everyone seemed to agree that a detention pond was unnecessary, so he was now

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1 planning to not have a detention pond and leave that whole area as a wilderness type of area. He said that he
2 spoke with John Jay of the fire department and Mr. Jay neither approved nor disapproved of the subdivision
3 but did state that he could service it. The Mahomet school system neither approved nor disapproved but said
4 they could service the subdivision and Kevin Furtney the road commissioner also stated he did not
5 disapprove of it and he could service the area.

6
7 Mr. Goldenstein asked Mr. Wozniak if he was saying that the density of lots he was going to place along the
8 pipeline would require the pipeline company to upgrade the pipes.
9

10 Mr. Wozniak answered absolutely, that's federal regulations unless there's a chance that the pipeline already
11 meets the more stringent requirements for the 10 homes per mile area and in that case they don't have to do
12 anything but if it doesn't then within two years they have to bring that to the higher safety standard.
13

14 Mr. Goldenstein asked if he heard the pipeline company testify during the last case that they have the right to
15 add additional pipelines wherever they want on the property.
16

17 Mr. Wozniak answered that he thought that was a legal question and he could only offer his feeling on the
18 issue which was that they have three pipelines and they claim to have thirty feet a piece for easement and if
19 they add one they would have to take one out.
20

21 Mr. Goldenstein said he had one hypothetical question and he mentioned that the way Mr. Wozniak
22 described the layout of the proposed subdivision, with the cul-de-sacs that they make very good playgrounds
23 and if the cul-de-sac in the pink zone were there and there were children playing in that cul-de-sac with
24 neighbor kids and whatever, and you had a ruptured pipeline, what would happen?
25

26 Mr. Wozniak answered that probably the same thing that would happen if there were kids in the backyard of
27 a house and it blew up because of a natural gas leak in the house.
28

29 Mr. Goldenstein said that Mr. Wozniak testified that the pressure in a house was very minimal compared to
30 these pipelines.
31

32 Mr. Wozniak answered that the pressure has nothing to do with it because the house will fill up with gas and
33 when it blows up it will take the whole yard. He said that as a matter of fact, although he didn't know this,
34 but from his engineering knowledge he would guess that a 2000 PSI pipeline would cause less havoc than a
35 1000 PSI because it would be such an intense heat that it would draw like a chimney so that all the air from
36 around would come in radially toward that and the wind could not shift it. The blowing up of a house will
37 kill you just as dead. He said that he understood that in the incident in 1998 the side of a house was scorched
38 by the gas but in a case like this if the house is off then everyone gets into their garage they get in the car and
39 away they go. He stated that's the reason for the federal regulation or else the regulation would read do not
40 build in flashing pink zones but that's not what it reads, it reads the line has to be upgraded to take that into
41 consideration. That's what was done in Champaign-Urbana when the city moved on to the high pressure
42 pipelines then they had to be upgraded.

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1 Ms. Griest asked if there were anymore questions for Mr. Wozniak. There were none.

2
3 Mr Tom Puracchio, Manager of Gas Storage for the People's Gas, Light, and Coke Company, stated that as
4 he had said before he has been with People's for twenty two years and has been the manager of the gas
5 storage field for the last five. He said that he neglected to mention before that he is an engineer and has a
6 degree in Industrial Engineering from Bradley University. He stated he would like to repeat most of what he
7 said earlier so that it is in the record for this case as well and they operate the underground storage field north
8 of Mahomet known as Manlove Field, and the field underlies approximately 40 square miles of ground
9 encompassing virtually all of Newcomb Township and parts of Brown, East Bend, and Condit Townships
10 and parts of Blue Ridge Township in Piatt County. Mr. Puracchio explained that Peoples and their affiliates
11 began drilling operations in 1959 and began injecting gas in the early 1960's and the operations progressed
12 to the point that they now have about 90 wells in total and they have about 70 miles of gas pipelines, water
13 pipelines, and alcohol or methanol pipelines. He explained that the natural gas is stored about 4000 feet deep
14 and the pipelines are in the neighborhood of 3 to 5 feet deep. He stated that the gas that is stored in Manlove
15 field is ultimately used in the City of Chicago and as he said earlier on a cold winter day as much as half of
16 the gas used in Chicago can come from their facility. He said that his purpose tonight is to provide the
17 Zoning Board with information and also potential land owners and residents with information so that they
18 can make a more fully informed decision on the property. He said that he had also requested that a certain
19 statement be corrected and he understands Mr. Wozniak corrected that. Mr. Puracchio also requested that
20 People's Gas easement rights be reflected on the public record and on all plats associated with the property
21 and that one of their primary objectives is to get that on the plat so that all people will be fully informed
22 before they buy the property and so the board is fully informed before they make a decision on the property
23 as to what their rights are. He said that People's Gas easement rights are very clear and they are spelled out
24 in the easement document and they are perpetual and those rights are that People's Gas has the right to store
25 gas, they have the right to their existing pipelines and they have the right to install new pipelines. He
26 explained that the document clearly contemplates that and provides for that and those easement rights
27 encompass the entire parcel, the entire 81 acres and there are similar rights governing the installation of new
28 wells near the pipeline installation. He added that People's Gas also has the right to enter the property and
29 access those lines and wells and maintain them or install new ones and it's important that the Board as well
30 as future land owners be aware of that. He said that he was starting to sound like a broken record but what
31 he wanted to accomplish that future land owners and the Board and the public record indicate what People's
32 Gas rights are. He explained that there have been several instances over the past few years where people
33 have purchased property and a lot of times he gets phone calls on the day of the closing or the day before the
34 closing from people wanting to know what the easement is all about and in his opinion one of the things he
35 wants to accomplish is to move forward in educating the board and the public to the extent that this is a
36 public hearing that People's Gas has easement rights and people need to be aware of what they are before
37 they buy the property and he thinks that is in everybody's best interests. Mr. Puracchio explained that the
38 proposed subdivision as currently drawn shows only thirty feet of easement for People's Gas lines and the
39 document clearly states that People's Gas has a certain width of right of way for each line depending on the
40 diameter of the line and in this case, these three lines each have a right of way equivalent of thirty feet. He
41 stated that in the instances where People's Gas has three lines along the eastern boundary and along the
42 easternmost portion of the southern boundary People's Gas has 90 feet of easement and where People's Gas
has two lines along the remaining of the southern boundary People's Gas has 60 feet of easement and along

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1 the northern boundary People's Gas currently has 30 feet of easement. He explained that the document
2 gives People's Gas the right to install additional pipelines on the parcel and while People's Gas has only one
3 line across the northern boundary currently, the document gives them the right to install other lines. He
4 explained that the proposed subdivision shows a bike and walking path around the perimeter and it was not
5 clear to him from the note that it extended around the entire perimeter but he suspected that it does he would
6 like clarification on that.

7 Mr. Puracchio stated that he wanted the Board to be aware that People's Gas does have an outstanding safety
8 record even though there had been a lot of talk about the 1998 event. He stated there's no question that was
9 spectacular, an eye opener, and as he stated earlier the 390 feet of impact zone the federal regulations now
10 discuss is a fair approximation of what was seen in the 1998 event. He explained that in that event the wind
11 was blowing from the southwest to the northeast and the farm ground was scorched for quite a distance to
12 the northeast direction and he was sure that local people who were here at the time, he wasn't, would testify
13 to that as well. He explained that based on the weather conditions, one shouldn't expect it to go straight up.
14 He stated that People's Gas does take their responsibility quite seriously and they do endeavor to meet or
15 exceed all regulations regarding pipeline safety and are not trying to avoid or setting the stage to avoid
16 meeting those regulations and it is with their pleasure that they meet those regulations and that is what their
17 job. He pointed out that the safety regulations do define a potential impact radius as the radius of a circle
18 within which the potential failure of a pipeline could have a significant impact on people or property and this
19 definition became part of the pipeline safety codes in 2004.

20 Mr. Puracchio stated that clearly the regulations do not in any way require that building not be allowed
21 within that zone and that's clearly not the intent of the code and that's not what he was trying to tell the
22 board but he was suggesting that the board keep in mind what that definition means and the fact that it's in
23 the pipeline safety regulations and it is worthy of consideration and certainly worthy of knowing that its there
24 and not just the board but future land owners or potential buyers and home builders on those lots deserve to
25 know that before they buy the property. He agreed that the subdivision that is drawn up is not dense enough
26 to trigger those particular pipeline safety regulations regarding that potential impact radius and the way the
27 codes are written as many as twenty homes, or twenty buildings intended for human occupancy would have
28 to fall inside a single circle of that radius, and clearly the way the subdivision is drawn up is not even close
29 to that. He explained that on the other hand, the code refers to a high consequence as an identified site, such
30 as a public place, a playground, a school, that kind of thing and if a single identified site falls within that
31 radius then the regulations kick in. He explained that People's Gas is not suggesting to the board that they
32 limit construction for the purpose of People's Gas avoiding the regulations but to let everyone know
33 People's Gas' easement rights and the potential if a pipeline does rupture and it is crucial that people
34 understand that People's Gas pipelines are at a much higher pressure with a normal operating pressure of
35 1750 pounds with a maximum allowable operating pressure for those pipelines by code of 2000 pounds. He
36 explained that when calculating the potential impact radius he used the 2000 pounds rating or pressure and
37 that equates to the 393 feet and if you use the usual operating pressure of 1750 pounds it drops to 368 feet
38 but for purpose of the regulations the regulations require that we use the maximum allowable operating
39 pressure of 2000, not the normal operating pressure of 1750. He stated it is critical again that everyone
40 understand that People's Gas lines are at that higher pressure and not 30 or 40 or 60 or 150 pounds that
41 might be running through a normal subdivision or town and the impact radius is therefore much greater
42 because of the higher pressure.

Mr. Puracchio stated he would like to take a moment to clear up the different sections of the code that have

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1 been talked about tonight. He explained that he has been talking about the potential impact radius and if that
2 portion of the code is triggered pipeline companies like People's Gas have to take extra steps to ensure the
3 integrity of the pipeline, that portion of the code is known as the pipeline integrity portion, and if those
4 regulations are triggered; they're not in this case, but if they are People's Gas has to take additional steps of
5 additional monitoring and testing to continually verify the integrity on that line either through re-hydro
6 testing or some other means of collecting corrosion data or pipe condition data on that line and the pipeline
7 integrity portion of the code does not discuss replacing the pipe or upgrading the pipe. He explained that the
8 other portion of the code that's been brought up tonight about class location is an entirely separate portion of
9 the code so there's an apples and oranges comparison going on here and it's one that can be easily clarified
10 with a little bit of time but the pipeline classification portion of the code is designed to require a certain
11 safety factor in the design pressure formula based on relative population density around the pipeline. He
12 further explained that the higher the population density the more stringent the safety factor is built into the
13 designed pressure calculation and if the population density increases to the point that a more stringent safety
14 factor is required, there's no doubt that People's Gas is required to abide by that and they fully intend to.
15 Mr. Puracchio explained that in this particular instance the pipe that is in the ground around that property
16 already meets the more stringent requirements of the Class 2 area and as it stands right now he did not
17 believe that People's Gas would have to replace any of the piping if the subdivision were built as proposed
18 but nevertheless there is a distinction between those two sections of the code that discuss class location and
19 pipeline integrity.

20 Mr. Puracchio summarized by saying that People's Gas easements are clearly spelled out in the document
21 and are perpetual and do grant People's Gas the right to lay additional lines and do specify that there's a
22 certain width of easement for each pipeline and People's Gas would like to have that on the property plats
23 and to make people aware of it.

24 Mr. Goldenstein asked if there were any plans now or in the future to add additional pipelines on the
25 northern boundary of the property

26 Mr. Puracchio answered they don't have any immediate plans to add additional lines there but he could not
27 rule out the future plans.

28 Mr. Bluhm stated that Mr. Puracchio was also going to clarify Part 2 of the easement that doesn't apply
29 anymore.

30 Mr. Puracchio answered that there was some discussion about an annual payment and the way these
31 documents are written is that the first sentence after the land description states that for and in consideration
32 of the payment of \$63 per acre and then later on in about the third paragraph it says that in the event that the
33 consideration heretofore paid is not in excess of \$45, the grantee shall pay grantor each calendar year \$2 per
34 acre and so in this case we paid \$63 per acre so therefore the \$2 annual payment does not apply.

35 Mr. Bluhm asked if basically they paid it all up front and there are no annual payments. Mr. Puracchio stated
36 that was correct.

37 Mr. Bluhm stated that People's Gas has a 90 foot easement along Route 47 and asked if People's Gas would

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1 decide to run another pipeline and could they put it all the way to the western portion of that 90 foot
2 easement?

3
4 Mr. Puracchio answered that they could lay another pipeline there however, that same section has two
5 distinct concepts and one is the width of the right-of-way and one is the placement of the pipeline within that
6 right-of-way. He explained that the document clearly states that the pipeline does not have to be in the
7 center of that right-of-way and the document also states that when they lay pipelines they have to be within
8 50 feet of a highway centerline, section line, quarter line, or established fence line. He explained that under
9 the scenario just put forth, laying it somewhere near 90 feet from the highway right-of-way line would seem
10 to be precluded by the 50 foot requirement. He summarized by saying that People's Gas has an easement
11 strip that is 90 feet wide which gives them access to both sides of the pipeline and builds in a little safety
12 factor to keep people from putting a foundation or other structures next to the pipeline and at the same time
13 there's a requirement that the pipes themselves be within 50 feet but that's two distinct concepts. He stated
14 that the placement of the pipe within 50 feet and the width of the easement depending on the diameter of the
15 pipeline with a certain width for each pipeline and normally speaking People's Gas wouldn't have occasion
16 to lay more than the three they have because they carry three things: alcohol, gas, and water. He said that he
17 thought that was contemplated when the easement was written and that's why the statement is in there that
18 allows them to lay additional lines in the future but the prospect of People's Gas laying three lines side by
19 side in a 90 foot strip was contemplated when the document was written, and that, in part, is also why the 50
20 foot restriction is in there as well.

22 Mr. Irle asked, in regards to the perpetuity of the easement, is the easement automatically renewable without
23 ratification of all concerned parties.

24
25 Mr. Puracchio answered that the easement is clearly perpetual and carries on to subsequent owners or a
26 subsequent company that may purchase People's. He stated that there is a document in the record that
27 indicates the document was reaffirmed but he does not know what occurred to cause that to happen but he
28 thinks it was superfluous. He explained that People's Gas has easements over 40 square miles of property
29 and they don't reaffirm them regularly. He suspected there was a property issue that came up and somebody
30 asked for it to be done, so it was done as an exception rather than a rule.

31
32 Mr. Irle stated that the only language he could find that indicated when an easement would be terminated
33 was on the occasion of People's abandonment of the line.

34
35 Mr. Puracchio stated that clearly if they abandon operations and abandon the lines that's a different case, but
36 they haven't and they don't intend to.

37
38 Mr. Schroeder stated that he could see why they would have to expand if the demand for their product would
39 be more in the Chicago area, there would come a time when you would have to expand and have more lines.
40 As the cities grow you have to have width there, you can't be isolated. He could see why that would happen
41 even if houses were built over here, you could still have a pipeline pretty close to your house, and a 50 or 90
42 foot line.

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1 Mr. Puracchio stated that what they have asked for is for the board to not allow building within their 90 foot
2 easement and they haven't asked the board to preclude someone from building within the red zone on the
3 map but they put that red zone there most importantly to educate the board and the public about what the
4 pipeline safety codes say. He said that People's Gas fully recognize that the codes do not in any way by
5 themselves prohibit anyone from building within that zone and they are not asking the board to prohibit that
6 and it is there for informational purposes for the Board and for future potential landowners and residents to
7 know about.

8

9 Mr. Hall stated that he had a question not related to this case, and asked if it was often they find someone
10 building a home within their easement.

11

12 Mr. Puracchio answered no, not within the easement.

13

14 Mr. Hall stated that the County permits homes in Newcomb Township all the time and it's true that the
15 Ordinance states that the Department can't authorize construction in an easement but the Department has no
16 record of where the easements are. He added that most of the homes in Newcomb Township aren't even in
17 recorded subdivisions and he was just wondering how full proof the system really is but he understood Mr.
18 Puracchio to be saying that it hasn't been a problem.

19

20 Mr. Puracchio stated that to his knowledge there are none within an easement.

21

22 Ms. Griest stated that she understood the premise that People's has 90 feet of easement because the easement
23 document stated that the pipeline constructed herein need not be laid in the center of its own right of way
24 strip, but she asked about the areas where there were less than three pipelines, if an easement were recorded
25 in the process that says they only have a 30 foot easement, then how does that protect future landowners or
26 People's as the easement holder in the future if they want to come in and lay two more pipelines? She asked
27 if People's has the perpetual right to continue to go in and capture additional easement at their discretion.

28

29 Mr. Puracchio stated they do within the constraints of the document and those are that the pipelines have to
30 be within 50 feet and they have to follow a border of some type: a section line, a highway right of way line, a
31 quarter section line.

32

33 Mr. Irle asked if People's has a maximum easement of 90 feet.

34

35 Ms. Griest asked if there was any provision in the easement document that prevented them from laying more
36 than three pipelines other than just their current need to not have more than three.

37

38 Mr. Puracchio stated that there was not.

39

40 Ms. Griest stated that the document of easement and pipeline right-of-way gives People's the legal right as
41 long as you're within the bounds of the section and road line to continue to expand your easements
42 indefinitely within those parameters.

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ZBA

1 Mr. Puracchio stated that was correct.

2
3 Mr. Goldenstein stated that was where he was going when he asked if there any plans to lay any more pipes
4 near the property.
5

6 Ms. Griest stated that she thought that was what she was hearing but she wanted to make sure.
7

8 Mr. Irle asked if the development density would prevent People's from laying additional lines.
9

10 Mr. Puracchio stated that it would not prohibit them and they are mixing up the two different parts of the
11 code again. He explained that the population density around the line can add additional obligations on their
12 part and those obligations are if the class location were to change to a higher density class then they would
13 have to use a more stringent safety factor in the design pressure calculation which means People's Gas
14 would either have to downgrade the pipe to operate at a lower pressure or potentially replace the pipe with
15 stronger pipe to meet that more stringent requirement. He explained that the situation here is that the pipe
16 that's in the ground already meets that more stringent safety factor of a class 2 area so if 11 more homes are
17 built within a mile People's Gas will have to use a more stringent safety factor in the design pressure
18 calculation and won't be affected by that because the pipe in the ground already meets that more stringent
19 safety factor. He said he believed it is 20 or more homes within a single impact circle and clearly that's not
20 the case here or an identified site such as a school, a playground, or some other area of public assembly
21 would have to fall within that circle or zone, but even if that did happen People's Gas would have to do
22 additional monitoring and investigation requirements would kick in and they would not be required to
23 replace the pipe in that scenario either. He explained that the federal codes are confusing and long but they
24 are clearly understood by the company and they fully understand their obligations and fully intend to comply
25 with them and they are not asking the County Board to relieve them of any of those obligations.
26

27 Ms. Griest asked the Board if they had any questions and there were none.
28

29 **Mr. Irle moved, seconded by Mr. Goldenstein to extend the meeting 15 more minutes. The motion
30 carried by voice vote.**

31
32 Mr. Jack Lawler declined to speak.
33

34 Mr. Frank Kamerer, 2648 CR 350E, stated that he owned 80 acres to the east of Mr. Wozniak's on the east
35 side of Route 47. He stated that he has a livestock operation and he's been up there for 54 years which is
36 longer than the gas company has been up there. Mr. Kamerer said he was gone 21 months, 10 days during
37 the Korean War, and that's the only time he was gone. He explained that now he has got neighbors to the
38 north of him and to the east of him and they're on 5 acre plots and some of these people have come in and
39 built almost on top of the pipeline. He said that they don't know what they are doing and they think it's the
40 little gas line in the city and they still want to stay there. Mr. Kamerer said he did not know why they would
41 want to build on a gas line. Mr. Kamerer said his home is around 300 feet from the one across the road and
42 that's too close because he was up there when the line blew and it blew a couple of years before that to the
west. Mr. Kamerer said a joint blew out and it put a hole in the ground so big you could put a bus in it. Mr.

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1 Kamerer said he had problems with some of the neighbors around there trying to close his livestock
2 business. He said at the south end of that 80 acres and a quarter mile to the east he has another livestock
3 operation and people have called the EPA trying to put him out of business. Mr. Kamerer said the EPA said
4 his businesses are grandfathered in but when if get him surrounded they might have a chance. He said that he
5 raised hogs for years and now he has cattle and the people across the road and he both thinks it smells bad
6 part of the time. Mr. Kamerer said he asks these people if they knew where they were building and they tell
7 him that they do. He stated he doesn't want to hear one word of complaint about noise, smell, or spreading
8 manure and no one has complained but when they get him surrounded they might get him. He said he hopes
9 they have enough money to buy him out.

10
11 Mr. Kamerer said when you get to the gas company, he's probably got near 2 miles of gas line and three
12 wells and they replaced three quarters of a mile last year. He said it's been 2 years so he guesses its doing
13 alright. Mr. Kamerer said their lines can run along roadways, fence lines and now they got one along this
14 subdivision and he doesn't see where the demand is for it. He said we have for sale signs nearly every corner
15 around there and why would you want to put people in danger of this pipeline. He said these pipes are man
16 made and some day it's going to fail he said they did a pretty good job so far. He said he thinks there's going
17 to be a playground. Mr. Kamerer asked why would someone put children on a pipeline and it just doesn't
18 make any sense to him. He said he doesn't know if there is that much of a demand for people to move out
19 there or not, maybe there is.
20

21 Ms. Griest asked Mr. Kamerer how many head of cattle he has. Mr. Kamerer answered he has had 60 to 70
22 head of cattle 35 chickens and 1000 turkeys but right now all I have is my cattle. Ms. Griest asked Mr.
23 Kamerer if right now he has 50 to 70 head of cattle. Mr. Kamerer answered no, about 60 to 70 head
24 including small calves.
25

26 Ms. Griest asked if anyone had any questions and there were none.
27

28 Doug Emkes stated in 1978 he was Mr. Kamerer's only neighbor and now there are about 70 families out
29 there. He said he and his wife own 5 acres where the house is and the 40 acres next to the property in
30 question and a 14 acre lake. He said there are 35 houses and mom and pop both have to work to pay for the
31 house and some who may have homes may not have kids and others may have 2 kids. He said if you are a
32 boy you come home and start talking on the phone to your boyfriend where do you think those 2 boys are
33 going to be? He asked who's responsibility is it to keep them out of the lake how big of fly swatter is his
34 wife suppose to have and who's to put up the fence and is it his problem or is it Mr. Wozniak's. He said that
35 he was there first and you were talking about squatter's rights and he is just asking. He said he agreed with
36 Mr. Kamerer there are houses back there for sale 3or 4hundred thousand dollars. He said the next thing is, is
37 there a requirement of house size and what is all this going to do to the value of houses out there already and
38 is there any concern about that. He said those are questions he and his wife have and that's the reason they
39 moved out there. He said they are farmers and that's why they moved to the country. He said he has ground
40 saturation problems on the 40 acres he owns and about 90 percent of that drains to the east and Frank
41 Kamerer's drains to the west. He said the tile that Mr. Wozniak was talking about when he dug it up was a
42 12-inch tile and it goes across the road not a drainage district tile. He said the tile that is broke down is eight
to ten inches according to CFM. He said I need to know what my ground impact is going to be and if my tile

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1 is going to be plugged up. He said he spent \$9,800.00 a couple of years ago just to tile a wet spot that only
2 drains to the east and what is that going to him and where is all his ground water going to go. He said that
3 those are concerns of his and he thinks he has a legitimate case. He said he would like the board to take that
4 under consideration not that he has a problem with neighbors, Mr. Kamerer has been grouchy enough for the
5 last 2 to 3 years but he learned to live with it but if there is 35 of them he doesn't know how he is going to do.
6 He said his main concern is who is going to keep the kids off of his property and the drainage issue. Mr.
7 Emkes said there are county roads on both sides and he lives on Newcomb Twp. Border and the impact of 35
8 to 70 people on that road maybe it is a good idea not to be able to pull out onto Route 47 with it bad enough
9 as it is on that road but the impact on 2600 and 2650 what's it going to be like now. He said right across
10 from his driveway 2 years ago they had an accident where a lady got hit pulling out of her driveway and he
11 would like the Board to take that under review.

12

13 Ms. Griest asked Mr. Hall if he has any questions for Mr. Emkes.

14

15 Mr. Hall asked Mr. Emkes if he said he replaced some tile a few years ago connected to the tile on this
16 property.

17

18 Mr. Emkes replied that he hooked into existing tile.

19

20 Mr. Hall asked Mr. Emkes if he knew where the tile is located.

21

22 Mr. Emkes answered he has a tile map of them.

23

24 Mr. Hall stated that if you know where tile is on the subject property this Board could require that to be
25 taken into account here in the planning stage.

26

27 Mr. Emkes said it was all done by GPS along with the gas company and he knows they have maps of that.
28 He said Scott Day would have provided the gas company with those tunnel maps also.

29

30 Mr. Hall said if you can provide the Board with the location of those tiles it would be much easier to take
31 that into account at this stage rather than later.

32

33 Mr. Emkes said mine would be GPS into the existing tile and he's not saying that's all the tile that's out
34 there.

35

36 Mr. Hall said any location you could give this Board could be taken into account.

37

38 Ms. Griest said if you could provide John those maps within the next week or so that would be great.

39

40 Ms. Griest asked if there were any other questions for Mr. Emkes.

41

42 Mr. Irle asked Mr. Emkes if he would like a fence between his property and the proposed subdivision.

As Approved October 12, 2006

ZBA

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1 Mr. Emkes answered yes, some kind of fence. We put our pond far enough off the road so no one would ever
2 know it was back there.

3
4 Ms. Griest if there were any other questions for Mr. Emkes and there were none.
5

6 Dave Nelson who lives at 2659 N Co. Rd. 350E Mahomet and he said he has a lot of issues he would like to
7 discuss in depth but due to the time he would just hit some of the high points.
8

9 Ms Griest interrupted and said he will have another opportunity as well and you are welcome to submit your
10 comments in writing in advance.
11

12 Mr. Nelson said that a lot of the people in Champaign County are like himself, surprised that we are even
13 talking about putting a subdivision four miles outside of Mahomet in the country. He said that we have been
14 talking about this with Peoples Gas and what the neighborhood expectations are and everybody who moved
15 out there expected to live in the country not in a subdivision. He said that all the other properties around
16 there are five acres plus with Doug's probably the biggest. He said in 2002 there was a change and he didn't
17 know if everyone along with himself understood what that change was but he did not think anybody wanted
18 the change to consist of putting a subdivision anywhere in Champaign County without it being adjoining to a
19 city or being a proposed expansion of that city in the future. Mr. Nelson said that he is all for expansion and
20 growth but this is four miles out, four miles north. He said it is going to be a while before this gets built in.
21 He said there are some subdivisions that already went through with five-acre tracts and he would like to see
22 everything continue to stay in five-acre tracts.
23

24 Ms. Griest interrupted and asked for a motion to continue the hearing.
25

26 **Mr. Goldenstien moved seconded by Mr. Bluhm to continue the hearing for another 15 minutes. The**
27 **motion carried by voice vote.**
28

29 Mr. Nelson said that the perc tests need to be reviewed because we have been under a drought and this
30 should be reviewed under normal conditions as opposed to the drought that we had. He said that it is
31 incomplete as to what drainage tile we need through there for proper drainage. He said that his property
32 adjoins the creek downstream and he did not see anything with regards to an environmental impact with any
33 of these reports on what it is going to do to the water and the erosion factor downstream. He said that the
34 creek does flood and the creek bed does overflow and it gets to be four to five feet at times so he said he is
35 concerned with the erosion on the backside of his property from the expanding creek and also concerned
36 about the environmental impact which so far does not address and how water gets off of the property. He
37 said they are not looking at the downstream effect. Mr. Nelson said that sewage factors are another concern.
38 He said that if a subdivision gets put in there will be special problems for sewage. Mr. Nelson said that after
39 living out here for the past ten years we have had problems with some of the septic systems out there and the
40 neighbors have been able to work it out but there is theory and then there is practical reality. He said that
41 finding someone to service these systems and maintain them for you is not as easy as you think it might be
42 due to proprietary rights. Mr. Nelson said that People's Gas are great neighbors and he thinks they try to
keep the gas line safe but you have to remember that People's Gas did not manufacture the pipe line that's

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1 being put in the ground. He said that the gas lines you are talking about with People's Gas are totally
2 different than the feeder lines that run through Champaign and Urbana. He said that he was there at the 1998
3 event and he has video of it if the Board would like to see it. He said the only caution is he could not get the
4 camera to capture it at 3:00am because his house is one mile away from where the line blew up but he said it
5 sounded like a jet landed on Route 47. He said the staging area for the Corn Belt Fire Department was
6 Shiloh Methodist Church and they could not go any closer until People's Gas shut that gas line down. Mr.
7 Nelson said he could get his camera to focus in on the flames until it died down. Mr. Nelson asked if
8 government agencies have the right to inform the people. He said that the realtor did not fully inform of what
9 it was and he was told that a two hundred foot radius was fine. He said that he is three hundred feet away
10 from a well head and he said he is too close. He said that the governmental bodies do have the right and duty
11 to keep people informed. Hs said these maps are excellent and wish he would have had them before he
12 bought his house.

13
14 Ms. Gries asked if there were any questions and there were none.
15

16 Mr. Tom Knuth who lives at 336 CR2650N across the street from the proposed subdivision said that the
17 entrance is across from his driveway. He said he may be the newest member out there and that he retired
18 from the military and just moved out there last year. He said he has a drainage ditch that runs along the west
19 side of his property and circles around the north end of his property and Mr. Nelson informed him that a few
20 years ago that half of his back yard was under water. He said that he is concerned about where that drainage
21 is going to go if there is extra drainage from that land. He said he has a lot more to learn about what the
22 future of the subdivision might be but he did appreciate the conversations tonight and appreciates the
23 opportunity to address the Board.

24
25 Ms. Gries asked if there were any questions for Mr. Knuth and there were none.
26

27 Ms. Gries said that concludes the names on the witness register and will not ask for additional
28 signatures at this time. Ms. Gries asked Mr. Hall if he needed anything from the Board or if he had a
29 continuation date.

30
31 Mr. Hall answered that if the Board thinks there should be changes to this plan they should pass that along at
32 this time.

33
34 Mr. Irle asked if this is a carbon copy from the prior case.

35
36 Ms. Gries said that I think there is one additional factor here that we don't have in the last case and that is
37 related to the adjacent livestock operation.

38
39 Mr. Hall said he will follow up with Mr. Kamerer on that and find out the locations and have them mapped
40 for the next time.

41
42 Mr. Bluhm said he would like to find out the location of the drain tile because he believes this is an
agricultural tile and should be used for agricultural purposes and not for residential.

1 ZBA

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2 Mr. Goldenstien said he did not think much has been done about the swale especially to the north because
3 they run between two or three lots.

4
5 Mr. Hall said the proposal is to refashion the swale so that it's a roadside ditch. He said he has some
6 concerns about that but he will have the engineers report on it by the next meeting.

7
8 Mr. Bluhm said he would like clarification on Mr. Wozinak's bike path on that outlot but there seems to be
9 no paving and that would be within that 90 foot easement.

10
11 Mr. Hall said he did not think in the proposal there were supposed to be paving but just grass.

12
13 Mr. Bluhm said that if he is having a walking/ bike path it should not be grass for bike path.

14
15 Ms. Griest asked if this case could be heard on August 31, 2006.

16
17 Mr. Hall answered yes.

18
19 **Mr. Bluhm moved seconded by Mr. Irle to continue Case 542-AM-06 Louis and JoAnn Wozniak to**
20 **August 31, 2006. The motion carried by voice vote.**

21 **Staff Report**

22
23 No report

24
25
26 **Other Business**

27
28 No report

29
30 **Adjournment**

31
32 Ms. Griest declared meeting adjourned. 10:27pm

33
34 Respectfully submitted

35
36 Secretary of Zoning Board of Appeals

37

38

39

40

41

42

CASE NO. 615-V-08

PRELIMINARY MEMORANDUM

Champaign

County

Department of



May 23, 2008

Petitioners: **James A. Hughes, Carol L. Fluck, and Judy A. Kirby**

Site Area: **approx. 1.0 acres**

Time Schedule for Development:
N/A

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

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

Prepared by: **J.R. Knight**
Associate Planner
John Hall
Zoning Administrator

Request: Authorize the creation and use of a lot with an average lot width of 164.75 feet in lieu of the required minimum average lot width of 200 feet in the AG-1 Agriculture Zoning District.

Location: A one acre tract in the Northwest Quarter of the Southwest Quarter of the Northeast Quarter of Section 17 of Philo Township and commonly known as the house at 968 North CR 1350E, Tolono.

BACKGROUND

Co-Petitioner Judy Kirby first inquired with staff about dividing the subject property from a larger parent tract on December 27, 2007. The subject property required a Plat of Subdivision to be approved by the County Board. A letter regarding the proposed subdivision was received on April 10, 2008, and indicated that the subject property would have an average lot width of only 164.75 instead of the required 200 feet. The Petitioners desire to obtain a variance to authorized the lesser average lot width due an existing easement of access south of the subject property and because the subject property is surrounded on all sides by farmland.

This case was advertised as requiring a variance for lot area as well as for average lot width. However, after the legal ad was placed staff realized the subject property did meet the minimum requirement of one acre for lot area.

EXTRATERRITORIAL JURISDICTION

The subject property is not within the one and one-half mile extraterritorial jurisdiction (ETJ) of a municipality with zoning. Municipalities do not have protest rights in variance cases and are not notified of such cases.

EXISTING LAND USE AND ZONING

Table 1. Land Use and Zoning in the Vicinity

| Direction | Land Use | Zoning |
|-----------|------------------------|------------------|
| Onsite | Single Family Dwelling | AG-1 Agriculture |
| North | Farmland | AG-1 Agriculture |
| East | Farmland | AG-1 Agriculture |
| West | Farmland | AG-1 Agriculture |
| South | Farmland | AG-1 Agriculture |

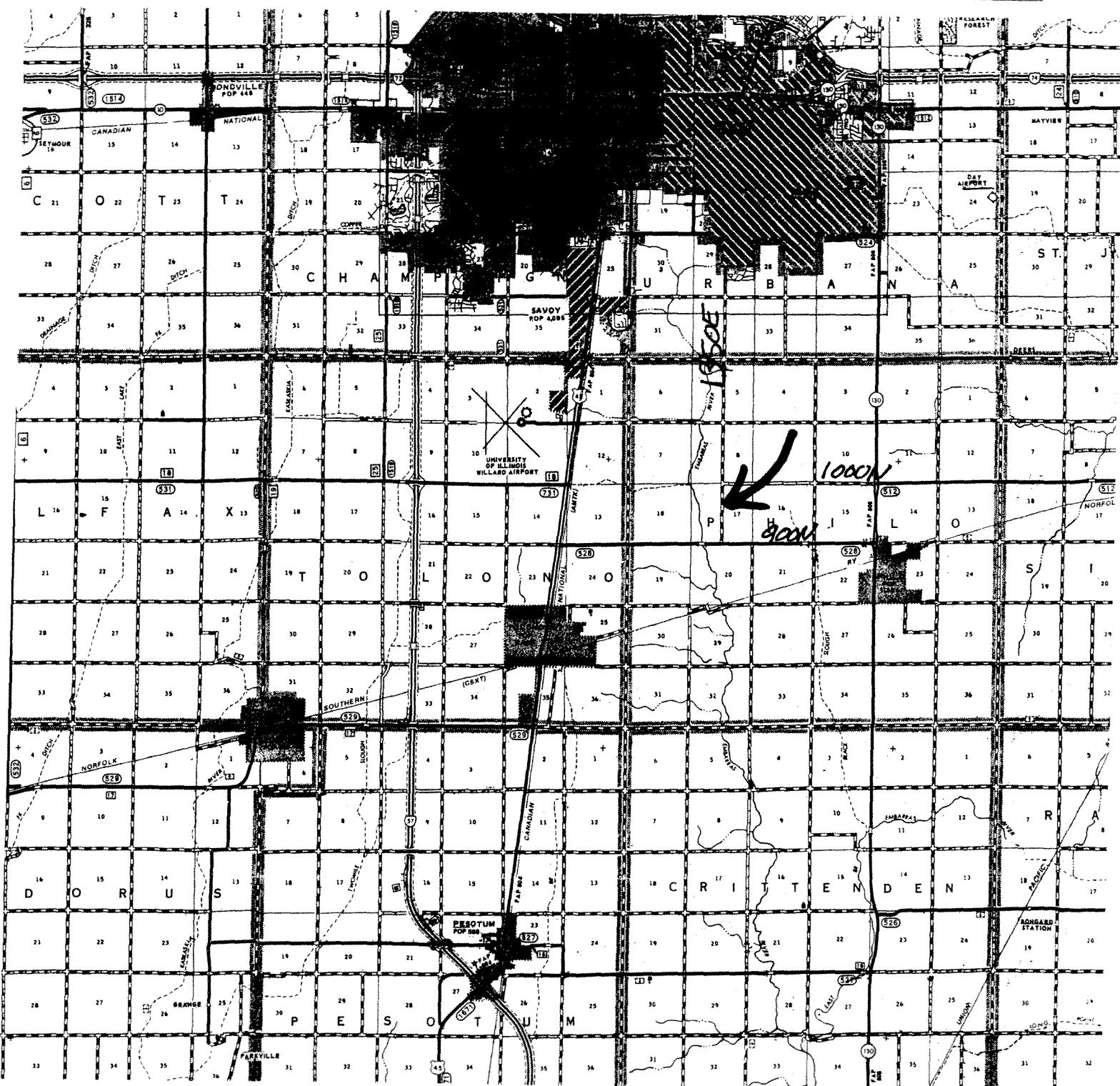
ATTACHMENTS

- A Zoning Case Maps for Case 615-V-08 (Location, Land Use, Zoning)
- B Proposed Plat of Hughes – Race Street First Subdivision dated March 20, 2008
- C Draft Summary of Evidence for Case 613-S-08

ATTACHMENT A. LOCATION MAP

Case 615-V-08

MAY 23, 2008



Champaign
County
Department of

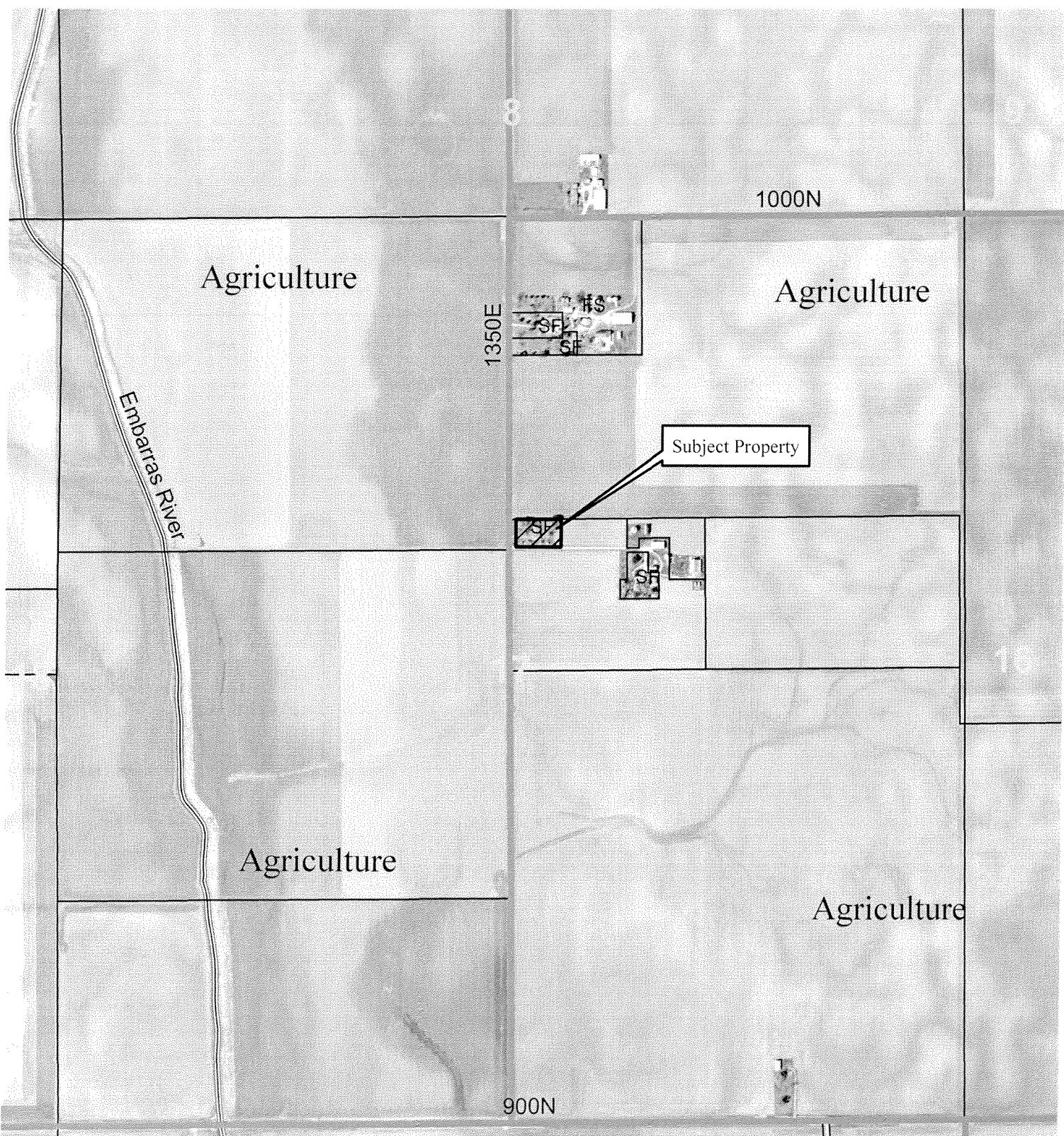


PLANNING &
ZONING

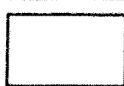
ATTACHMENT A. LAND USE MAP

Case 615-V-08

MAY 22, 2008

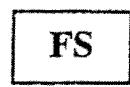


Area of Concern



SF

Single Family



FS

Farmstead

Champaign
County
Department of

**PLANNING &
ZONING**

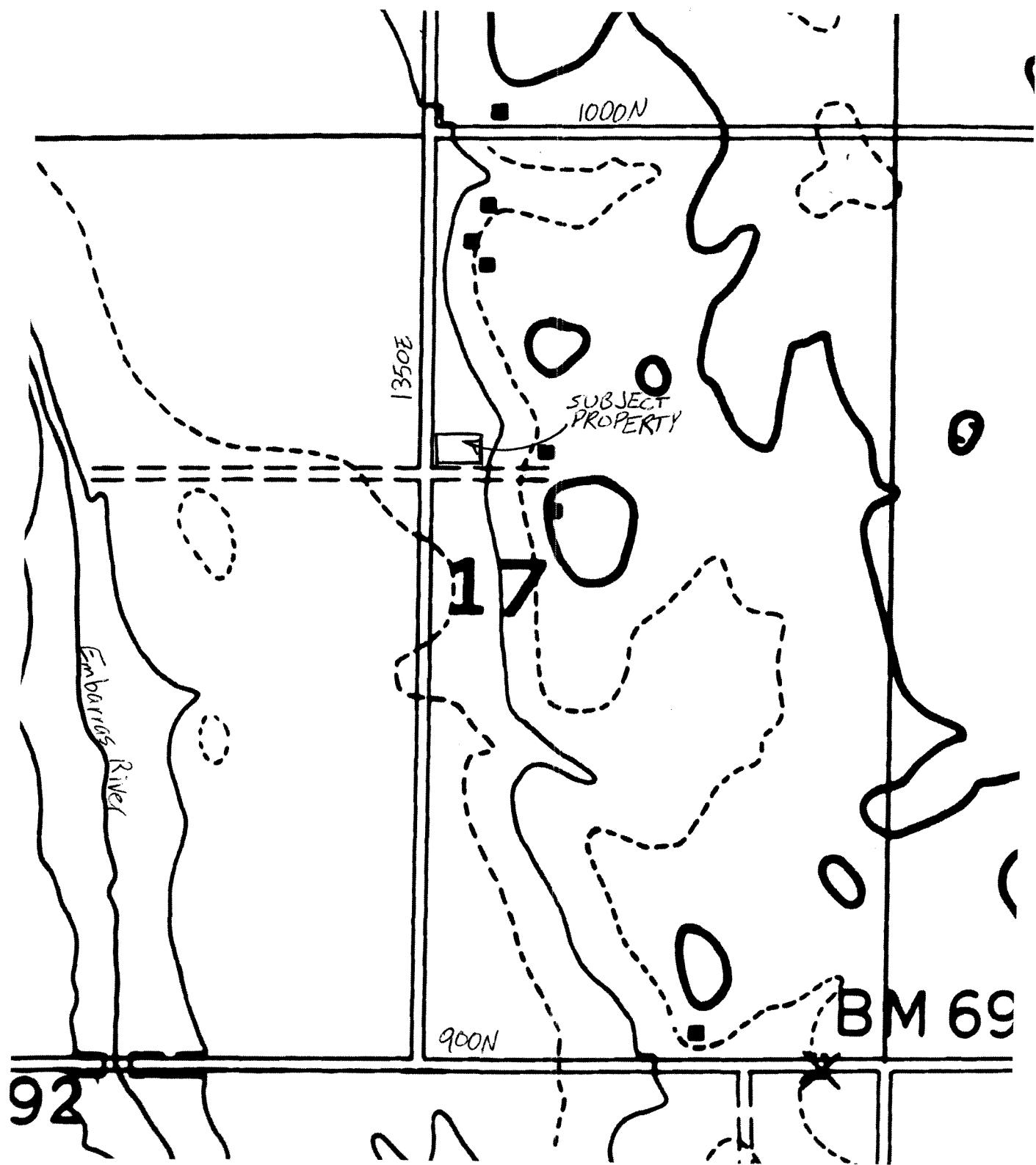


1 inch equals 800 feet

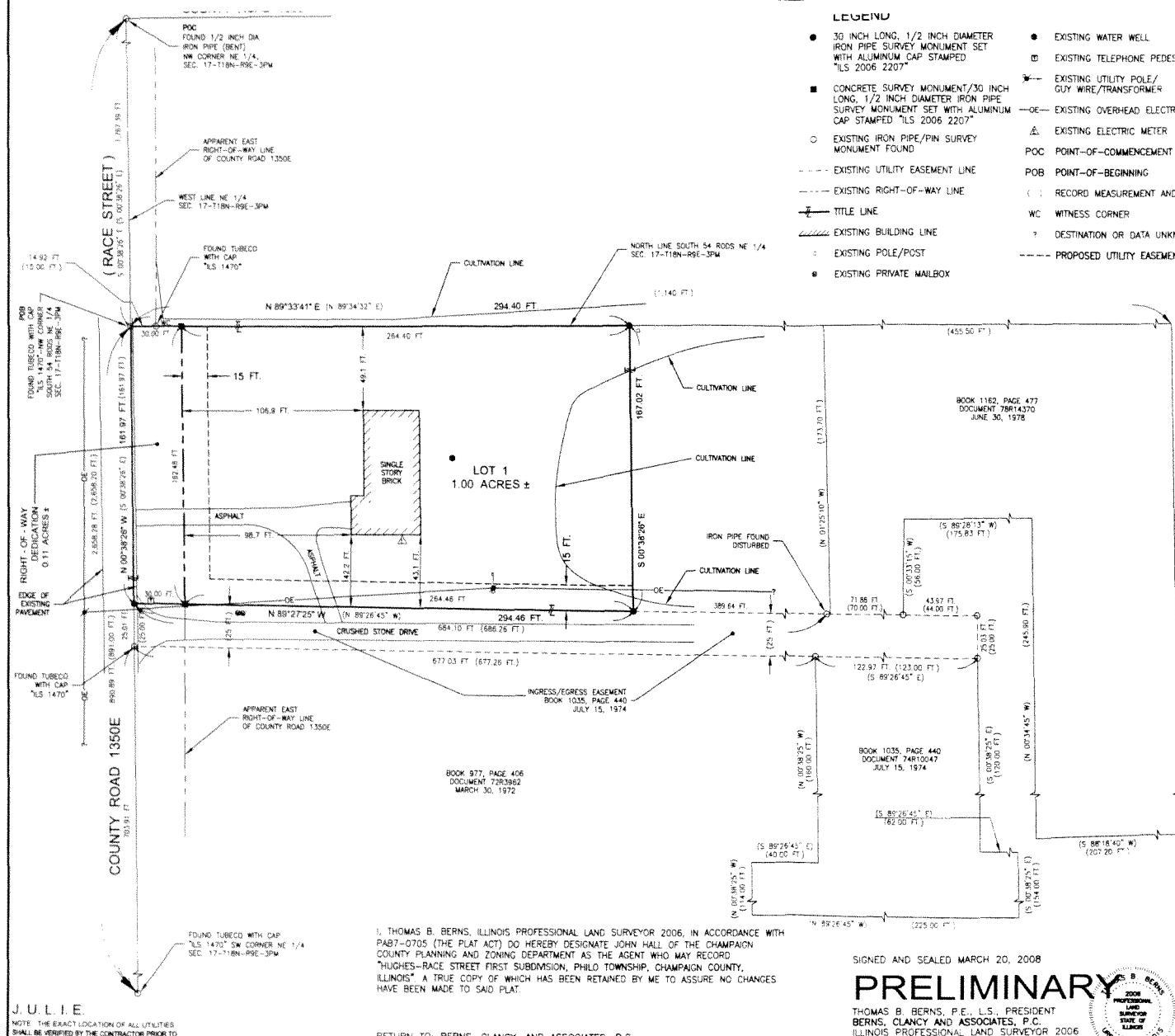
ATTACHMENT A. ZONING MAP

Case 615-V-08

MAY 23, 2008



| | | | | | | |
|----------------------------|-----------------------------|--------------------------|---------------------------|----------------------|-------|---|
| 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 | | |



TOWNSHIP HIGHWAY COMMISSIONER

I, HIGHWAY COMMISSIONER, OF URBANA TOWNSHIP DO HEREBY CERTIFY THAT THIS PLAT HAS BEEN REVIEWED BY ME AND APPROVED WITH RESPECT TO ROADWAY ACCESS AND OTHER MATTERS UNDER MY JURISDICTION.

DATED THIS _____ DAY OF _____, A.D., 20_____.
(Handwritten date)

TOWNSHIP HIGHWAY COMMISSIONER

CHAMPAIGN COUNTY ENVIRONMENT AND LAND USE COMMITTEE

CHAIRMAN

SUBMISSION OFFICER

CHAMPAIGN COUNTY BOARD

APPROVED THE ____ DAY OF ____ A.D. 20____
CHAMPAIGN COUNTY BOARD

FINAL PLAT

HUGHES - RACE STREET
FIRST SUBDIVISION
PHILO TOWNSHIP,
CHAMPAIGN COUNTY, ILLINOIS

PRELIMINARY

THOMAS B. BURNS, P.E., L.S., PRESIDENT
BERNS, CLANCY AND ASSOCIATES, P.C.
ILLINOIS PROFESSIONAL LAND SURVEYOR 200
URBANA, CHAMPAIGN COUNTY, ILLINOIS
DATE OF LICENSE EXPIRATION NOVEMBER 30, 2008



BERNS, CLANCY AND ASSOCIATES
ENGINEERS • SURVEYORS • PLANNERS

ENGINEERS • SURVEYORS • PLANNERS
405 EAST MAIN STREET - POST OFFICE BOX 755
URBANA, ILLINOIS 61803-0755

JOB: 5854 DATE: 032008 SHEET 1 OF 2
FILE: 5854.DWG

GENERAL NOTES

ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF, UNLESS NOTED OTHERWISE.

SEE CHAMPAIGN COUNTY ORDINANCES AND REGULATIONS FOR ZONING, SETBACK AND BUILDING STANDARD REQUIREMENTS.

ALL SURFACE, SUBSURFACE, BUILDING IMPROVEMENTS AND UTILITY SERVICE LINES ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN.

THE LOCATION AND/OR EXISTENCE OF ALL UTILITY SERVICE LINES TO SUBJECT PROPERTY ARE UNKNOWN AND ARE NOT SHOWN.

BEARINGS SHOWN ARE BASED UPON A PLAT OF SURVEY BY CHARLES S. DANNER, ILLINOIS PROFESSIONAL LAND SURVEYOR 1470, DATED MAY 16, 1978. THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 17 HAS A BEARING OF SOUTH 00 DEGREES 38 MINUTES 26 SECONDS EAST.

DETAILS NOT DRAWN TO SCALE.

SEE MONUMENT RECORDS ON FILE WITH THE COUNTY RECORDER'S OFFICE FOR DETAILS OF SECTION CORNERS USED IN THIS SURVEY.

KNOWN PRIOR SURVEYS

PLAT OF SURVEY OF PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 18 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS BY CHARLES S. DANNER, ILLINOIS PROFESSIONAL LAND SURVEYOR 1470, DATED MAY 16, 1978.

PLAT OF SURVEY OF PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 18 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS BY CHARLES S. DANNER, ILLINOIS PROFESSIONAL LAND SURVEYOR 1470, DATED APRIL 21, 1976.

PLAT OF SURVEY OF PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 18 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS BY CHARLES S. DANNER, ILLINOIS PROFESSIONAL LAND SURVEYOR 1470, DATED APRIL 5, 1974.

PLAT OF SURVEY OF PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 18 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS BY CHARLES S. DANNER, ILLINOIS PROFESSIONAL LAND SURVEYOR 1470, DATED JANUARY 31, 1972.

PLAT OF SURVEY OF SECTION 17, TOWNSHIP 18 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS BY SURVEYORS ALFRED M. DANELY AND C. B. SCHMELTZER, DATED FEBRUARY 28, 1927.

OWNER'S AND ENGINEER'S STATEMENT

TO THE BEST OF OUR KNOWLEDGE AND BELIEF, THE DRAINAGE OF SURFACE WATERS WILL NOT BE CHANGED BY THE DEVELOPMENT OF "HUGHES - RACE STREET FIRST SUBDIVISION, PHILO TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS" OR ANY PART THEREOF, OR IF SUCH SURFACE WATER DRAINAGE WILL BE CHANGED THAT REASONABLE PROVISION HAS BEEN MADE FOR THE COLLECTION AND DIVERSION OF SURFACE WATERS INTO PUBLIC AREAS, OR DRAINS WHICH THE SUBDIVIDER HAS THE RIGHT TO USE, AND THAT SUCH SURFACE WATERS WILL BE PLANNED FOR IN ACCORDANCE WITH GENERALLY ACCEPTED ENGINEERING PRACTICES SO AS TO REDUCE THE LIKELIHOOD OF DAMAGE TO THE ADJOINING PROPERTY BECAUSE OF CONSTRUCTION OF "HUGHES - RACE STREET FIRST SUBDIVISION, PHILO TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS".

THOMAS B. BURNS, PRESIDENT
BERNS, CLANCY AND ASSOCIATES, P.C.
ILLINOIS PROFESSIONAL ENGINEER 30889
URBANA, CHAMPAIGN COUNTY, ILLINOIS
DATE OF LICENSE EXPIRATION: NOVEMBER 30, 2009



JAMES A. HUGHES

CAROL L. FLUCK

JUDY A. KIRBY

SURVEYOR'S REPORT

I, THOMAS B. BURNS, ILLINOIS PROFESSIONAL LAND SURVEYOR 2006 AND PRESIDENT OF BERNS, CLANCY AND ASSOCIATES, P.C. DO HEREBY STATE THAT AT THE REQUEST OF AND FOR THE EXCLUSIVE BENEFIT OF THE HUGHES ESTATE, I PREPARED A BOUNDARY SURVEY ON THE GROUND TO THE NORMAL STANDARD OF CARE OF PROFESSIONAL LAND SURVEYORS PRACTICING IN CHAMPAIGN COUNTY, ILLINOIS OF A PART OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 18 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, PHILO TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS, BEING MORE PARTICULARLY DESCRIBED AS A RESULT OF THIS PRESENT SURVEY AS FOLLOWS:

COMMENCING AT AN IRON PIPE SURVEY MONUMENT FOUND AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 18 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, CHAMPAIGN COUNTY, ILLINOIS; THENCE SOUTH 00 DEGREES 38 MINUTES 26 SECONDS EAST ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 17, A DISTANCE OF 1,767.39 FEET TO AN IRON PIPE SURVEY MONUMENT FOUND AT THE NORTHWEST CORNER OF THE SOUTH 54 RODS OF THE NORTHEAST QUARTER OF SAID SECTION 17 FOR THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 33 MINUTES 41 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH 54 RODS OF THE NORTHEAST QUARTER OF SAID SECTION 17, A DISTANCE OF 294.40 FEET TO AN IRON PIPE SURVEY MONUMENT SET; THENCE SOUTH 00 DEGREES 38 MINUTES 26 SECONDS EAST, A DISTANCE OF 187.02 FEET TO AN IRON PIPE SURVEY MONUMENT SET ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 17; THENCE NORTH 89 DEGREES 33 MINUTES 41 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH 54 RODS OF THE NORTHEAST QUARTER OF SAID SECTION 17, A DISTANCE OF 294.46 FEET TO AN IRON PIPE SURVEY MONUMENT SET ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 17; THENCE NORTH 00 DEGREES 38 MINUTES 26 SECONDS WEST ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 17, A DISTANCE OF 181.87 FEET TO THE POINT OF BEGINNING, CONTAINING 1.11 ACRES, MORE OR LESS, ALL AS SHOWN ON THE ACCOMPANYING PLAT, ALL SITUATED IN PHILo TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS.

I FURTHER STATE THAT BASED UPON MY REVIEW OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP, PANEL 200 OF 300, COMMUNITY PANEL NUMBER 1708940200 B WITH AN EFFECTIVE DATE OF MARCH 1 1984 THE PROPERTY SURVEYED IS REPORTEDLY LOCATED WITHIN ZONE "C" (AREAS OF MINIMAL FLOODING).

I FURTHER STATE THAT THE OWNERS DESIRE TO FACILITATE THE SALE OF SAID LAND BY CREATING A LOT FOR WHICH PURPOSE I PREPARED A PLAT TO WHICH THIS REPORT IS ATTACHED AND MADE A PART THEREOF, PARTICULARLY DESCRIBING AND SETTING FORTH THE LOT INTO WHICH SAID LANDS HAVE BEEN SO PLATED AND I NUMBERED THE LOT, WHICH NUMBER IS SHOWN IN LARGE SIZE ON SAID PLAT AND HAVE STATED AND SHOWN THE PRECISE DIMENSIONS OF SAID LOT.

I FURTHER STATE THAT REFERENCE HAS BEEN MADE UPON SAID PLAT TO KNOWN AND APPMENANT SURVEY MONUMENTS FROM WHICH FUTURE SURVEYS MAY BE MADE AND THAT PLACED SURVEY MONUMENTS AT EACH LOT CORNER AS SHOWN ON THE ACCOMPANYING PLAT, THAT ALL OF THE DIMENSIONS ARE SHOWN IN FEET AND HUNDREDS OF FEET, AND THAT THE EASEMENT LOCATIONS AND WIDTHS ARE AS INDICATED ON SAID PLAT.

I FURTHER STATE THAT NO INVESTIGATION CONCERNING ENVIRONMENTAL AND SUBSURFACE CONDITIONS, OR TO DETERMINE THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONTAINERS OR FACILITIES WHICH MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY WAS MADE AS A PART OF THIS SURVEY.

I FURTHER STATE THAT AS A PART OF THIS BOUNDARY SURVEY, EXCEPT AS MAY BE SPECIFICALLY NOTED ON THIS PLAT, I MADE NO INVESTIGATION CONCERNING ZONING OR LAND USE, NOR HAVE I MADE AN INDEPENDENT SEARCH OF THE RECORDS FOR EASEMENTS, ENCUMBRANCES, RESTRICTIVE COVENANTS, SUBDIVISION RESTRICTIONS, OWNERSHIP, TITLE EVIDENCE OR ANY OTHER FACTS WHICH AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE FOR SUBJECT PROPERTY OR FOR ADJOINING PARCELS AS I RELIED UPON THE MATERIALS AND REPRESENTATIONS SUPPLIED BY THE OWNERS.

I FURTHER STATE THAT NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN DATA CONCERNING THE EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY MUNICIPAL OR PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES.

I FURTHER STATE THAT THERE ARE NO APPARENT ABOVE GROUND ENCROACHMENTS EXCEPT AS SHOWN ON THE ACCOMPANYING PLAT OF SURVEY.

I FURTHER STATE THAT NO PART OF THE AREA COVERED BY THIS PLAT OF SURVEY IS WITHIN 500 FEET OF A SURFACE DRAIN OR WATER COURSE SERVING A TRIBUTARY AREA OF 640 ACRES OR MORE.

I FURTHER STATE AT THE REQUEST OF THE OWNERS, THIS SUBDIVISION IS TO BE KNOWN AS "HUGHES - RACE STREET FIRST SUBDIVISION, PHILo TOWNSHIP, CHAMPAIGN COUNTY, ILLINOIS".

I FURTHER STATE THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

SIGNED AND SEALED MARCH 20, 2008

PRELIMINARY

THOMAS B. BURNS, P.E., L.S., PRESIDENT
BERNS, CLANCY AND ASSOCIATES, P.C.
ILLINOIS PROFESSIONAL LAND SURVEYOR 2006
URBANA, CHAMPAIGN COUNTY, ILLINOIS
DATE OF LICENSE EXPIRATION: NOVEMBER 30, 2008



FINAL PLAT

HUGHES - RACE STREET
FIRST SUBDIVISION
PHILo TOWNSHIP,
CHAMPAIGN COUNTY, ILLINOIS

BERNS, CLANCY AND ASSOCIATES
ENGINEERS • SURVEYORS • PLANNERS
405 EAST MAIN STREET • POST OFFICE BOX 755
URBANA, ILLINOIS 61803-0755
PHONE (217) 384-1144 • FAX (217) 384-3355

JOB: 5854 DATE:
FILE: 5854.DWG 03/2008 SHEET 2 OF 2

J. U. L. I. E.

NOTE: THE EXACT LOCATION OF ALL UTILITIES
SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO
CONSTRUCTION ACTIVITIES. FOR UTILITY LOCATIONS
CALL J. U. L. I. E. (800) 892-9123
E-mail: info@julie.org

PRELIMINARY DRAFT

615-V-08

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

Final Determination: **{GRANTED / GRANTED WITH SPECIAL CONDITIONS / DENIED}**

Date: May 29, 2008

Petitioners: James A. Hughes, Carol L. Fluck, and Judy A. Kirby

Request: Authorize the creation and use of a lot with an average lot width of 164.75 feet in lieu of the required minimum average lot width of 200 feet in the AG-1 Agriculture Zoning District.

SUMMARY OF EVIDENCE

From the documents of record and the testimony and exhibits received at the public hearing conducted on **May 29, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. The Petitioners, James A. Hughes, Carol L. Fluck, and Judy A. Kirby are the beneficiaries of the Hughes Estate that owns the subject property.
2. The subject property is a proposed one acre tract in the Northwest Quarter of the Southwest Quarter of the Northeast Quarter of Section 17 of Philo Township and commonly known as the house at 968 North CR 1350E, Tolono.
3. The subject property is not located within the one and one-half mile extraterritorial jurisdiction of a municipality with zoning. Municipalities do not have protest rights in variance cases and are not notified of such cases.

GENERALLY REGARDING LAND USE AND ZONING IN THE IMMEDIATE VICINITY

4. Regarding land use and zoning on the subject property and adjacent to it:
 - A. The subject property is zoned AG-1 Agriculture. It is currently in use as a single family dwelling.
 - B. All the land surrounding the subject property is zoned AG-1 Agriculture and is in use as farmland.

GENERALLY REGARDING THE PROPOSED SITE PLAN

5. The proposed site plan is the proposed plat of the Hughes – Race Street First Subdivision, as follows:

- A. The proposed lot is approximately 1.00 acre in area.
- B. The proposed lot is 162.48 feet wide at the west end and 167.02 feet wide at the east end, which gives an average lot width of 164.75.
- C. There is a pre-existing 25 feet wide easement of access along the south line of the proposed lot.
- D. The proposed lot is 264.40 feet deep along the north line and 246.46 feet deep along the south line, which gives an average lot depth of 264.43 feet.

GENERALLY REGARDING SPECIFIC ORDINANCE REQUIREMENTS AND ZONING PROCEDURES

- 6. Regarding specific *Zoning Ordinance* requirements relevant to this case:
 - A. The following definitions from the *Zoning Ordinance* are especially relevant to the requested variances (capitalized words are defined in the Ordinance):
 - (1) “LOT” is a designated parcel, tract or area of land established by PLAT, SUBDIVISION or as otherwise permitted by law, to be used, developed or built upon as a unit.
 - (2) “LOT LINES” are the lines bounding a LOT.
 - (3) “LOT WIDTH, AVERAGE” is the LOT AREA divided by the LOT DEPTH or, alternatively, the diameter of the largest circle that will fit entirely within the LOT LINES.
 - B. In the *Zoning Ordinance*, the minimum required average lot width for the AG-1, Agriculture District is established by Section 5.3 to be 200 feet minimum.
 - C. Paragraph 9.1.9 D. of the *Zoning Ordinance* requires the ZBA to make the following findings for a variance:
 - (1) That the requirements of Paragraph 9.1.9 C. have been met and justify granting the variance. Paragraph 9.1.9C. of the *Zoning Ordinance* states that a variance from the terms of the *Champaign County Zoning Ordinance* shall not be granted by the Board or the hearing officer unless a written application for a variance is submitted demonstrating all of the following:
 - (a) That special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district.
 - (b) That practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot.
 - (c) That the special conditions, circumstances, hardships, or practical difficulties do not result from actions of the Applicant.

- (d) That the granting of the variance is in harmony with the general purpose and intent of the *Ordinance*.
 - (e) That the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare.
- (2) That the variance is the minimum variation that will make possible the reasonable use of the land or structure, as required by subparagraph 9.1.9D.2.
- D. Paragraph 9.1.9 E. of the *Zoning Ordinance* authorizes the ZBA to prescribe appropriate conditions and safeguards in granting a variance.

GENERALLY REGARDING SPECIAL CONDITIONS THAT MAY BE PRESENT

7. Generally regarding the Zoning Ordinance requirement of a finding that special conditions and circumstances exist which are peculiar to the land or structure involved which are not applicable to other similarly situated land or structures elsewhere in the same district:
- A. The Petitioners have testified on the application that, "**A private access easement is located along the southern side of the proposed one (1) lot subdivision. The owner does not want to encumber the existing private access easement by addition of multiple land owners. The private access easement location precludes compliance with Section 5.3 of the ordinance.**"
 - B. The Hughes Estate does not own the adjacent farmland to the north of the proposed lot.
 - C. There is a pre-existing easement of access along the south line of the proposed lot.

GENERALLY REGARDING ANY PRACTICAL DIFFICULTIES OR HARDSHIPS RELATED TO CARRYING OUT THE STRICT LETTER OF THE ORDINANCE

8. Generally regarding the Zoning Ordinance requirement of a finding that practical difficulties or hardships related to carrying out the strict letter of the regulations sought to be varied prevent reasonable and otherwise permitted use of the land or structures or construction on the lot:
- A. The Petitioner has testified on the application that, "**Strict adherence would disallow creation of the proposed subdivision and require sale of the residential structure and adjacent farm ground as a single unit.**"
 - B. Regarding expansion of the subject property to mitigate the variance:
 - (1) The Hughes Estate does not own the adjacent farmland to the north of the proposed lot.
 - (2) There is a pre-existing easement of access along the south line of the proposed lot.
 - (3) If the proposed lot were made to comply with the 200 feet average lot width requirement the easement of access would have to be kept open and the south 36 feet of the lot would not be available for use.

PRELIMINARY DRAFT

GENERALLY PERTAINING TO WHETHER OR NOT THE PRACTICAL DIFFICULTIES OR HARDSHIPS RESULT FROM THE ACTIONS OF THE APPLICANT

9. Generally regarding the Zoning Ordinance requirement for a finding that the special conditions, circumstances, hardships, or practical difficulties do not result from the actions of the Applicant:
- A. The Petitioner has testified on the application that, "**Private access easement was created by Book 1035, Page 440 dated July 15, 1974 prior to adoption of Champaign County Land Use Goals and Policies on November 29, 1977.**"
 - B. The Petitioners, as beneficiaries of the Hughes Estate, received the subject property in its current configuration, with all existing structures and the existing easement already in place.

GENERALLY PERTAINING TO WHETHER OR NOT THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE

10. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance is in harmony with the general purpose and intent of the Ordinance:
- A. The Petitioner has testified on the application that, "**The requested variance will permit the creation of one (1) rural residential lot with less than one tenth (0.1) acre loss in agricultural production area. Private access easement created by ancestor of current owners.**"
 - B. Besides the importance of accommodating onsite wastewater treatment and disposal as part of the basis for the minimum average lot width requirement, other considerations are as follows:
 - (1) Adequate light and air: The subject property contains a single home and is surrounded by farmland and a few buildings from an adjacent farmstead.
 - (2) Separation of structures to prevent conflagration: Structures in the rural zoning districts are generally located farther from fire protection stations than structures in the urban districts and the level of fire protection service is generally somewhat lower given the slower response time. The subject property is within the Philo Fire Protection District and the station is approximately 4.25 road miles distant.
 - (3) Aesthetics may also play a part in the minimum lot area requirement.
 - (4) There is no indication on the proposed site plan of the location of the septic system.
 - E. The subject property has an average lot width of 164.75 feet, which is 82.375% of the required 200 feet for a variance of 17.625%.
 - G. Reducing the amount of variance is one way to ensure that any variance is more in harmony with the general intent and purpose of the Ordinance. The proposed lot is as large as is practical given the surrounding farmland and adjacent easement of access.
 - H. The requested variances are not prohibited by the *Zoning Ordinance*.

GENERALLY PERTAINING TO THE EFFECTS OF THE REQUESTED VARIANCE ON THE NEIGHBORHOOD AND THE PUBLIC HEALTH, SAFETY, AND WELFARE

11. Generally regarding the Zoning Ordinance requirement for a finding that the granting of the variance will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, or welfare:
 - A. The Petitioner has testified on the application that, "**A residential structure is located on the proposed subdivision. No new infrastructure or residential traffic will be created. No new residential driveway will be required.**"
 - B. The Petitioner is not proposing to alter the property or its use in any way, and the uses on this property are long standing with no record of complaints against them. There should be no effect on the public health, safety, or welfare, therefore, from the proposed variance.
 - C. The Fire Protection District has received notice of this variance but no comments have been received.
 - D. The Township Highway Commissioner has also received notice of this variance, but no comments have been received.
12. On the application the Petitioner has also testified that, "**Inclusion of private easement would not comply with Section 5.3. Additional land south of the private easement is required to comply with Section 5.3.**"

DOCUMENTS OF RECORD

1. Letter from Roger Meyer, Project Engineer, received on April 10, 2008, with attachments:
 - A Letter to Anne E. Haaker dated March 26, 2008
 - B Letter to Rick Pietruska dated March 26, 2008
 - C Letter to Champaign County Soil and Water Conservation District
 - D Site Location Map (based on Champaign County Land Atlas and Plat Book)
 - E Site Location Map (based on aerial photography)
 - F Site Location Map (based on aerial photography)
 - E Proposed Plat of Hughes – Race Street First Subdivision dated March 20, 2008
2. Application from James A. Hughes, Carol L. Fluck, and Judy A. Kirby, received on April 10, 2008
3. Preliminary Memorandum for Case 572-V-06, with attachments:
 - A Zoning Case Maps for Case 615-V-08 (Location, Land Use, Zoning)
 - B Proposed Plat of Hughes – Race Street First Subdivision dated March 20, 2008
 - C Draft Summary of Evidence for Case 613-S-08

FINDINGS OF FACT

From the documents of record and the testimony and exhibits received at the public hearing for zoning **Case 615-V-08** held on **May 29, 2008**, the Zoning Board of Appeals of Champaign County finds that:

1. Special conditions and circumstances **{DO / DO NOT}** exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because: _____

2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied **{WILL / WILL NOT}** prevent reasonable or otherwise permitted use of the land or structure or construction because: _____

3. The special conditions, circumstances, hardships, or practical difficulties **{DO / DO NOT}** result from actions of the applicant because: _____

4. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** in harmony with the general purpose and intent of the *Ordinance* because: _____

5. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {WILL / WILL NOT}** be injurious to the neighborhood or otherwise detrimental to the public health, safety, or welfare because: _____

6. The requested variance **{SUBJECT TO THE PROPOSED CONDITION} {IS / IS NOT}** the minimum variation that will make possible the reasonable use of the land/structure because: _____

7. **{NO SPECIAL CONDITIONS ARE HEREBY IMPOSED / THE SPECIAL CONDITIONS IMPOSED HEREIN ARE REQUIRED TO ENSURE COMPLIANCE WITH THE CRITERIA FOR SPECIAL USE PERMITS AND FOR THE PARTICULAR PURPOSES DESCRIBED BELOW:}**

FINAL DETERMINATION

The Champaign County Zoning Board of Appeals finds that, based upon the application, testimony, and other evidence received in this case, that the requirements of Section 9.1.9.C *{HAVE/HAVE NOT}* been met, and pursuant to the authority granted by Section 9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign County determines that:

The Variance requested in **Case 615-V-08** is hereby *{GRANTED/GRANTED WITH CONDITIONS/DENIED}* to the Petitioners, James A. Hughes, Carol L. Fluck, and Judy A. Kirby, to authorize, **the creation and use of a lot with an average lot width of 164.75 feet in lieu of the required minimum average lot width of 200 feet in the AG-1 Agriculture Zoning District..**

{SUBJECT TO THE FOLLOWING CONDITION(S):}

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