

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS NOTICE OF REGULAR MEETING

Date: **September 11, 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 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 and is specific to each pipeline.**

**CHAMPAIGN COUNTY ZONING BOARD OF APPEALS
REGULAR MEETING AGENDA
SEPTEMBER 11, 2008
PAGE 2**

Case 583-AT-07 cont:

- 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, BUILDINGS, or STRUCTURES on existing lots or on LOTS that are exempt from the RRO District; and any outlot or STREET in any RRO District or R District.**
- e. Requires notice be given to any applicant for a Zoning Use Permit within a PIR or land subject to or within 150 feet of an easement for underground gas storage.**

Case 630-AM-08 Petitioner: **Wingfield Distributors, LLC, and Dean Wingfield, President and Wayne Busboom**

Request: **Amend the Zoning Map to change the zoning district designation from the AG-1, Agriculture Zoning District to the B-1, Rural Trade Center Zoning District.**

Location: **An approximately 2.6 acre portion of a 30 acre tract in the North Half of the Northeast Quarter of the Southeast Quarter of Section 22 of Somer Township and commonly known as the farm shed at the Southwest corner of intersection of CR 2050N and CR 1600E.**

- 6. New Public Hearings
- 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. 630-AM-08

SUPPLEMENTAL MEMORANDUM

September 5, 2008

Champaign
County
Department of

**PLANNING &
ZONING**

Petitioners: **Wingfield Distributors, Inc.
and Dean Wingfield, President; and
Wayne Busboom**

**Request: Amend the Zoning Map to
change the zoning district designation
from the AG-2 Agriculture Zoning
District to the B-1 General Business
Zoning District**

Site Area: **2.6 acres**

**Location: An approximately 2.6 acre
portion of a 30 acre tract in the North
Half of the Northeast Quarter of the
Southeast Quarter of Section 22 of
Somerset Township and commonly
known as the farm shed at the
Southwest corner of the intersection of
CR 2050N and CR 1600E.**

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

Time Schedule for Development:
Immediate

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

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

STATUS

This is the second meeting for this case, it was continued from the August 28, 2008, ZBA meeting. At that meeting the ZBA requested additional information from the petitioners to better document the proposed use of the subject property.

Co-petitioner Dean Wingfield has provided a letter, received on September 3, 2008, that contains new information regarding proposed new buildings, numbers of employees, numbers of shipments received and sent out, and a site plan that indicates the size of the existing building and the proposed new building. At this time staff has not yet performed any analysis of the new information and it is included for the Board's information.

ATTACHMENTS

- A Letter from Dean Wingfield, received on September 3, 2008
- B Wingfield Distributing Preliminary Site Plan, date September 1, 2008



WINGFIELD Flexible Harrows

4712 N. Cunningham Ave., Urbana, IL 61802
Phone: (800)637-6712 Website: www.wingfields.com

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SEP 03 2008

J.R. Knight
ASSOCIATE PLANNER
DEPT. OF PLANNING + ZONING

CHAMPAIGN CO. P & Z DEPARTMENT

RE: INFORMATION REQUESTED by The Champaign County Zoning Board of Appeals per Wingfield Dist. Use of 2.6 Acres and existing building on Wayne Busboom property.

DEAR Mr Knight.

1) ENCLOSED IS A DRAWING OF Busboom Property with EXISTING 54'X104' Building, with ~~the~~ our PROPOSED 80'X120' ENERGY EFFICIENT MANUFACTURING FACILITY. ~~FOR~~ OUR HARROWS.

The EXISTING building will be used for STORAGE AND PARTS which will eliminate ANY USE OF OUTSIDE STORAGE. ANY outdoor lighting will consist OF ONE OR TWO ENERGY EFFICIENT outdoor lights.

2) AT THE PRESENT TIME WE HAVE 3 FULL TIME EMPLOYEES AND 4-6 PART TIME EMPLOYEES. WE ARE OPEN TO THE PUBLIC 8-5 Monday-Friday. CONCERNING PARKING, WE NEVER HAVE MORE THAN 7-8 VEHICLES PARKED OUTSIDE AT ONE TIME. 90% OF OUR PRODUCTS ARE SHIPPED BY UPS OR FREIGHT LINES. THE TRAFFIC CONSISTS OF ONE UPS DELIVERY IN AM AND ONE PICKUP IN PM. IN ADDITION ONE OR TWO FREIGHT PICKUP'S WILL BE IN THE AFTERNOON BEFORE 5PM.



WINGFIELD Flexible Harrows

4712 N. Cunningham Ave., Urbana, IL 61802

Phone: (800)637-6712 Website: www.wingfields.com

2) Periodic Shipments OF RAW MATERIALS
will be delivered NO MORE THAN 3-4
TIMES PER WEEK. ALL OF THE ABOVE
Traffic will be directed TO USE
US HWY45 - TO Co Rd 20 - TO
Township Rd 1606E From the North
OUR BUSINESS IS A YEAR AROUND concern
with our BUSIEST TIME from NOV- APRIL.

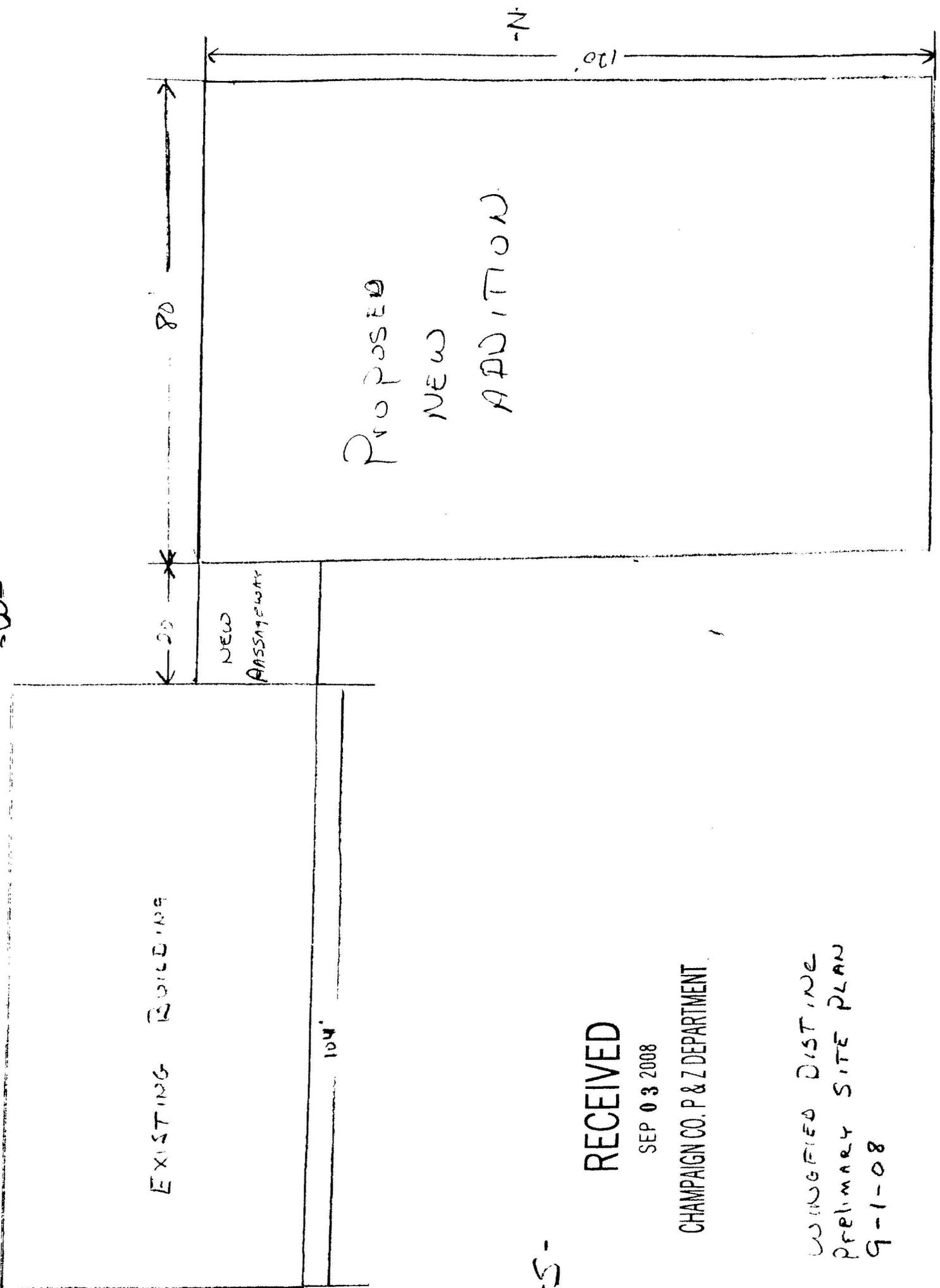
I AM PLANNING TO ATTEND YOUR NEXT ZONING
MEETING ON SEPT 11TH I JUST NEED TO
KNOW THE TIME.

Sincerely,
Dion Wyfull

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CHAMPAIGN CO. P & Z DEPARTMENT



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CHAMPAIGN CO. P & Z DEPARTMENT

WINGFIELD DISTRICT
 PRELIMINARY SITE PLAN
 9-1-08

-E-

CASE NO. 583-AT-07

SUPPLEMENTAL MEMORANDUM

September 5, 2008

Petitioner: **Zoning Administrator**

Champaign
County
Department of



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: 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 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 and is specific to each pipeline.**
 - 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, BUILDINGS, or STRUCTURES on existing lots or on LOTS that are exempt from the RRO District; and any outlot or STREET in any RRO District or R District.**
 - e. **Requires notice be given to any applicant for a Zoning Use Permit within a PIR or land subject to or within 150 feet of an easement for underground gas storage**

STATUS

This case was originally continued from the May 29, 2008, ZBA meeting to the July 31, 2008, ZBA meeting. Scheduling conflicts which led to the cancellation of both June ZBA meetings required this case to be moved to the September 11, 2008, ZBA meeting.

An up-to-date Finding of Fact has been included along with a slightly revised Draft Ordinance.

The state's attorney and staff have not yet completed a response to Attorney Michael Tague's letter dated January 29, 2008. Also, it appears that Attorney Michael Tague's letter received on December 4, 2007, was never distributed to Board members. Although the letter does not raise any new issues, in order for it to be included as a Document of Record it has been included with this memorandum.

DATA STILL NOT INCLUDED ON PIPELINE IMPACT RADIUS MAPS

At this time there is still some data that staff has not obtained for the Pipeline Impact Radius Maps. The maps are now proposed to only include transmission gas pipelines and hazardous liquids pipelines. Staff has not yet obtained some data regarding the gas transmission pipeline operated by Panhandle Eastern Gas Company in the southern portion of Champaign County. Because most of the data for both of these types of pipelines was obtained from the National Pipeline Mapping System website revised maps will not be available during the public hearing.

ATTACHMENTS

- A Revised Draft Amendment to the *Zoning Ordinance* dated September 5, 2008
- B Letter from Michael Tague, received on December 4, 2007
- C Revised Finding of Fact for Case 583-AT-08

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.

PIPELINE, GAS: Any transmission pipeline for gases including within a storage field. This definition does not apply to either service lines for local service to individual buildings or distribution lines, as defined in 49 CFR 192.3.

PIPELINE, HAZARDOUS LIQUID: Any pipeline used for the transmission of anhydrous ammonia, petroleum, or petroleum products such as propane, butane, natural gas liquids, 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 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 192.3 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. 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 192.3. 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.

Revised Draft Amendment to the Zoning Ordinance

SEPTEMBER 5, 2008

4. Exemptions
 - a. AGRICULTURE or an ACCESSORY USE, ACCESSORY BUILDING, or ACCESSORY STRUCTURE to AGRICULTURE.
 - b. Any PIPELINE, wellhead, or USE that is an ACCESSORY USE, ACCESSORY BUILDING, or ACCESSORY STRUCTURE to a GAS PIPELINE or HAZARDOUS LIQUID PIPELINE or a wellhead.
 - 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, per paragraph 4.3.4.A., 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 land owner that submits a Zoning Use Permit Application on any of the following:
 - i. Land that is located within a PIPELINE IMPACT RADIUS; or
 - ii. Land that is subject to an easement for underground gas storage;
or
 - iii. Land within 150 feet of an easement for underground gas storage.
 - b. The notice shall include the following information:
 - i. The approximate location and type of the relevant pipeline
 - 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.

THE LAW FIRM OF
FLYNN, PALMER & TAGUE

402 WEST CHURCH STREET
P.O. BOX 1517
CHAMPAIGN, ILLINOIS 61824-1517

TELEPHONE (217) 352-5181
FAX NO. (217) 352-7964

OF COUNSEL
CHARLES L. PALMER

JOHN L. FRANKLIN
(1907-1984)
LEONARD T. FLYNN
(1927-2003)
MICHAEL J. TAGUE
JEROME P. LYKE
ROBERT E. JACOBSON

November 30, 2007

Champaign County Zoning Board of Appeals
c/o Mr. John Hall
Department of Planning & Zoning
Brookens Administrative Center
1776 East Washington Street
Urbana, IL 61802

RE: Pipeline Text Amendment

Dear Board Members:

The clients that I represent were pleased that the straw poll at the November 29, 2007, meeting tended to support an approach by the Zoning Board of Appeals to develop findings of fact that would support recommendation of a proposed text amendment to the Environmental Land Use Committee of the Champaign County Board based upon reasoned discussion of the relevant facts that bear upon benefits and burdens of restrictions on development within a pipeline impact radius.

As I indicated at the meeting and as further supported by the comments of the other witness at the meeting, the language in Attachment F represented a vast improvement over previous versions and a significant improvement over the text in Attachment E as the text of Attachment F addresses real situations that occur based upon facts rightfully considered by the Zoning Board of Appeals.

I wish I would have prepared a written synopsis of my comments so that the Recording Secretary could have an easier time capturing my statements for the record, but I can retroactively help in that regard.

The clients I represent (particularly Mr. Bateman) believe that the language in Attachment F(H)(2) is not consistent with a proper assessment of benefits and burdens and is inconsistent with prior factual evaluations made by the Zoning Board of Appeals. As written, paragraph H(2) would prohibit a lot in an RRO District if any part of the lot was within the pipeline impact radius. We believe that the actual text should state:

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CHAMPAIGN CO. P & Z DEPARTMENT

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DEC 04 2007

CHAMPAIGN CO. P & Z DEPARTMENT

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2. No LOT without adequate building area outside the pipeline impact radius shall be created in an RRO DISTRICT or in the R-1, R-2, R-3, R-4 or R-5 DISTRICT after {DATE OF ADOPTION}.

We believe that this text would be consistent with findings of fact that there is a safety concern for dwelling and residential auxiliary structures in the impact radius that is different and greater than that posed by casual transient presence within the pipeline impact radius. People that would be in roads adjacent to pipelines, ingress and egress lanes that would be within the impact radius, engaged in farming within the impact radius, or engaged in mowing lawns or otherwise physically being present in yards are in a substantially different category of risk from property and people in stationary buildings. If someone is plowing a field, the person is conscious of surroundings, and if they saw a pipeline failure or fire, they could and obviously would move away from a failure to a safe distance. Someone in a stationary dwelling could be sleeping or unaware of a failure and not be in a position to immediately move to a safe distance or, of course, stationary buildings could be prone to property damage as they are not able to move to a safe distance under the circumstances.

Even though we are dealing with admittedly exceptionally small probabilities of actual danger, manyfold lesser than the dangers inherent in most routine daily activities, my clients believe that the Zoning Board of Appeals could in its role as fact-finder rationally determine a qualitative difference in public safety within the higher density RRO, R-1, R-2, R-3, R-4 or R-5 Districts that would support the H(3) prohibition of use, building or structure within a pipeline impact radius, but we do not believe that a significant quantitative or even qualitative improvement of public safety would be had by prohibiting lots that would have adequate building area outside the pipeline impact radius so that buildings could be constructed consistent with the prohibitions of H(3).

In conclusion, we urge the members of the Zoning Board of Appeals to carefully consider the facts that 1) the probability of any impact within or without the impact radius is exceptionally small, 2) prohibiting lots that would have adequate building area outside the potential impact radius would be a substantial negative restriction on property rights with resulting diminution of value and diminution of property owners' liberties without a corresponding benefit in enhanced material improvement to public safety, and 3) the prohibitions of use, building or structure except agricultural uses with the pipeline impact radius captures virtually all of the material quantitative and qualitative improvements on public safety.

We believe that many property owners who would ultimately be in a position to present appropriate RRO lots (like Mr. Bateman) could do so within the parameters of Attachment F with the modification in language as to paragraph H(2).

November 30, 2007
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CHAMPAIGN CO. P & Z DEPARTMENT

While not abandoning our argument that a setback for all pipelines of 150 feet would seem to us to be more reasonable all around given the exceptionally small probability of any impact because of the significantly small probability of failure at all, the approach and text amendment of Attachment F with the modification of language we have suggested would allow most property owners who would be developing RRO lots (which by their nature typically are lots of several acres) to fashion those lots so that the non-agricultural buildings and structures can be outside the impact radius.

Very truly yours,

FLYNN, PALMER & TAGUE



Michael J. Tague

MJT/st

REVISED DRAFT for September 5, 2008

583-AT-07

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

Final Determination: *{GRANTED / DENIED}*

Date: September 11, 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 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.
 - e. Requires notice be given to any applicant for a Zoning Use Permit within a PIR or within 150 feet of an easement for underground gas storage.

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, May 29, 2008, and September 11, 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.

Item 3.D. continued

- (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. Add the following definitions 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.

Item 4.A. continued

- (2) PIPELINE, GAS: Any transmission pipeline for gases including within a storage field. This definition does not apply to either service lines for local service to individual buildings or distribution lines, as defined in 49 CFR 192.3.
 - (3) PIPELINE, HAZARDOUS LIQUID: Any pipeline used for the transmission of anhydrous ammonia, petroleum, or petroleum products such as propane, butane, natural gas liquids, benzene, gasoline, jet fuel, diesel fuel, fuel oil, and kerosene.
- B. Add the following Subparagraph H. to Subsection 4.3.4 Lots, as follows: (Note: the following is numbered as it will appear in the Zoning Ordinance, not in the typical format of a Finding of Fact)
- 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 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 192.3 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. 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 192.3. 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.

Item 4.B. continued

4. Exemptions
 - a. AGRICULTURE or an ACCESSORY USE, ACCESSORY BUILDING, or ACCESSORY STRUCTURE to AGRICULTURE.
 - b. Any PIPELINE, wellhead, or USE that is an ACCESSORY USE, ACCESSORY BUILDING, or ACCESSORY STRUCTURE to a GAS PIPELINE or HAZARDOUS LIQUID PIPELINE or a wellhead.
 - 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, per paragraph 4.3.4.A., 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 land owner that submits a Zoning Use Permit Application on any of the following:
 - i. Land that is located within a PIPELINE IMPACT RADIUS; or
 - ii. Land that is subject to an easement for underground gas storage; or
 - iii. Land within 150 feet of an easement for underground gas storage.
 - b. The notice shall include the following information:
 - i. The approximate location and type of the relevant pipeline
 - 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.

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 transmission pipelines are included under Title 49 of the Code of Federal Regulations (CFR), Part 192 that establishes the following:
 - (1) Section 192.3 has definitions for four different types of gas pipelines: distribution lines, gathering lines, service lines, and transmission lines, as follows:
 - (a) Distribution lines are any pipeline other than a gathering or transmission line.
 - (b) Gathering lines are pipelines that transport gas from a current production facility to a transmission line or a main.
 - (c) Service lines are a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service line ends at the outlet of the customer meter or at the connection to the customer's piping, whichever is further downstream, or at the connection to the customer's piping if there is no meter.
 - (d) Transmission lines are pipelines other than gathering lines that either:
 - i. Transport gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center; or
 - ii. Operate at a hoop stress of 20 percent or more of specified minimum yield strength; or
 - iii. Transport gas within a storage field.
 - (2) Section 192.5 describes Class locations. 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.

Item 5.A.(2) continued

- (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) Section 192.609 describes the required study when an increase in population indicates a change in class location. 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) Section 192.901 indicates that the safety regulations which refer to high consequence areas and potential impact radius are only applicable to gas transmission pipelines.
 - (5) Section 192.903 defines potential impact radius (PIR) 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.
 - (6) Section 192.903 does not define a high consequence area but it 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.

Item 5.A.(6) continued

- (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.

 - C. Title 83 of the Illinois Administrative Code Part 590 indicates that the Illinois Commerce Commission adopts the standards contained in 49 CFR 192 (and other parts of Title 49 not relevant to this amendment) as its minimum safety standards for gas pipeline facilities.
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 Puracchio, 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:

Item 6.D. continued

- (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 Puracchio, 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. Bateman 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 miniscule 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.

Item 7.C. continued

- (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.

Item 7.F. continued

- (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 EXISTING PIPELINES IN CHAMPAIGN COUNTY

8. Existing pipeline facilities in Champaign County can be found on the National Pipeline Mapping System Public Map Viewer (<http://www.npms.phmsa.dot.gov/>) and on the "Gas Facilities in Illinois" map prepared by the Illinois Commerce Commission, as follows:

Item 8. continued

- A. Gas distribution lines in Champaign County typically branch off of larger transmission lines and provide service to the smaller urbanized areas in the county. They are shown on the “Gas Facilities in Illinois” map, but are not intended to be subject to the proposed amendment. They are generally located, as follows:
- (1) Lines operated by Northern Illinois Gas Company which branch off from the Natural Gas Pipeline Company of America interstate line in Piatt County and serve the Villages of Fisher, Rantoul, Gifford, Penfield, Ludlow, and several villages in Ford and Vermillion Counties.
 - (2) Lines operated by Ameren Services which branch off the Trunkline Gas Company transmission line at various points throughout the county and serve the Villages of Royal, Ogden, St. Joe, Homer, Sidney, and Philo.
 - (3) Lines operated by Ameren Services which branch off the Natural Gas Pipeline Company of America interstate line in Piatt County and serve the Villages of Mahomet, Rising, Seymour, Bondville, and Staley.
 - (4) Lines operated by Ameren Services which branch off the Panhandle Eastern Pipeline Company transmission line in the southern part of the county and serve the Villages of Tolono, Sadorus, Ivesdale, and Pesotum.
 - (5) Lines operated by Ameren Services which branch off the Panhandle Eastern Pipeline Company interstate line in Edgar County, travel through Vermillion County, and enter Champaign County along the east county line in the southeast corner of the county. These lines serve the Villages of Allerton, Broadlands, and Longview.
- B. There are no gas gathering pipelines in Champaign County.
- C. Gas service lines in Champaign County are not shown on either the National Pipeline Mapping System Public Map Viewer or the “Gas Facilities in Illinois” map and are not intended to be subject the proposed amendment.
- D. Gas transmission lines are defined by 49 CFR 192.3 in three different ways (See Item 5.A.(1)(d)). These lines are shown primarily on the National Pipeline Mapping System Public Map Viewer. The three different types of transmission pipelines are generally located in the county as follows:
- (1) The first type of gas transmission pipeline, “transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center.” There appear to be five of these kinds of gas transmission pipelines in the county, as follows:
 - (a) A pair of lines operated by Trunkline Gas Company, which enters the county along the south county line, near I-57, travels northeast through the County, and exits the County along the east line north of I-74.

Item 8.D.(1) continued

- (b) Another line operated by Trunkline Gas Company, which branches off the previous lines, travels northwest through the county to the People's Gas Manlove Storage Facility in the northwest part of the county.
 - (c) A line operated by Panhandle Eastern Pipeline Company which enters the county at the south county line near I-57, travels due north until it connects to a transmission line operated by Ameren just south of Champaign-Urbana.
 - (d) A line operated by the University of Illinois which enters the county on the west county line just south of Champaign-Urbana, travels due east through the county where it appears to connect to the Ameren transmission pipeline just south of Champaign-Urbana.
 - (e) Lines operated by People's Gas Light and Coke Company which leave their Manlove Storage facility in the northeast part of the county and travel north out of the county and west out of the county.
- (2) The second type of gas transmission pipeline, "operates at a hoop stress of 20 percent or more of specified minimum yield strength." There appear to be three of these kinds of pipelines in the county, as follows:
- (a) A line operated by Northern Illinois Gas Company that enters the county on the north county line, travels southeast until it crosses I-57, then travels south to the vicinity of Rantoul, then it travels east out of the county along US-136.
 - (b) A line operated by Ameren Services which is practically an extension of the Panhandle Eastern Pipeline Company line (See Item 8.D.(1)(c)) into Champaign-Urbana.
 - (c) Another line operated by Ameren Services which enters the county on the west line just south of I-72 and travels approximately due east to the west side of I-57.
- (3) The third type of gas transmission pipeline, "transports gas within a storage field." The Manlove Gas Storage Field in the northwest corner of the county has many of these kinds of lines. These lines are not currently shown on the National Pipeline Mapping System, but they will be available in the future, until then they are proposed to be regulated by notifying land users who are within 150 feet of the extent of People's Gas underground gas storage easements and within the storage field.

GENERALLY REGARDING RELEVANT LAND USE GOALS AND POLICIES

9. 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

Item 9. continued

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.

10. 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.

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 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.

Item 11. continued

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.

12. 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.

13. 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:

Item 13.A. continued

- (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. Application for Text Amendment from the Zoning Administrator, received on January 18, 2008
2. 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
3. National Pipeline Mapping System Map of Transmission Pipelines in Champaign County (annotated, no legend)
4. Letter from Michael Tague, received October 11, 2007 (distributed at meeting)
5. Letter from Michael Tague, received October 18, 2007
6. 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
7. Letter from Scott Bidner, President, Champaign County Farm Bureau, received on November 29, 2007
8. Supplemental Memorandum dated November 29, 2007, with attachments:
 - A Letter from Scott Bidner, President, Champaign County Farm Bureau, received on November 29, 2007
 - B Excerpt of Minutes of October 11, 2007, ZBA meeting
9. Letter from Michael Tague, received on December 4, 2007
10. 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
11. Letter from Michael Tague, received on January 29, 2008

12. 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

13. Supplemental Memorandum dated May 29, 2008, with attachments:
 - A Revised Draft Amendment to the *Zoning Ordinance* dated May 29, 2008
 - B Excerpt of 49 CFR 192 (included separately)
 - C 83 IAC 590.10

14. Supplemental Memorandum dated September 5, 2008, with attachments:
 - A Revised Draft Amendment to the *Zoning Ordinance* dated May 29, 2008
 - B Letter from Michael Tague, received December 4, 2007
 - C Revised Finding of Fact for Case 583-AT-08

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