

**MINUTES
BOARD OF ADJUSTMENT
AUGUST 27, 2014
REGULAR MEETING**

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MEMBERS PRESENT: Larry Wright, Full Member (Chair)
David Blankfard, Full Member (Vice Chair)
Karen Barrows, Full Member
Jeffrey Schmitt, Full Member
Mark Micol, Alternate Member

MEMBER ABSENT: Samantha Cabe, Alternate Member [excused]

STAFF PRESENT: Michael Harvey, Current Planning Supervisor
James Bryan, Staff Attorney
Patrick Mallett, Planner II
Tina Love, Administrative Assistant II

AGENDA ITEM 1: CALL TO ORDER

Larry Wright called the meeting to order.

AGENDA ITEM 2: ELECTION OF OFFICERS

Larry Wright: Before we begin, we really need to elect officers and so for those who are awaiting hearing on Agenda Item 6, this is Board business and I would like to open the nomination for chair.

MOTION made by Karen Barrows to nominate Larry Wright for Chair. David Blankfard seconded.

VOTE: Unanimous

Larry Wright: I would like to open the nominations for Vice Chair.

MOTION made by Karen Barrows to nominate David Blankfard for Vice Chair. Jeff Schmitt seconded.

VOTE: Unanimous

AGENDA ITEM 3: CONSIDERATION OF ADDITIONS TO AGENDA

Larry Wright: Are there any other considerations to the agenda? Hearing none, we may move on.

AGENDA ITEM 4: APPROVAL OF MINUTES

A. AUGUST 11, 2014

Larry Wright: Can we take pages 1 through 8? Hearing none, 9 – 21. Hearing none, 22-28. I would like to make a clarification on page 28. It reads, ‘this meeting was adjourned’. I would like to say this session was adjourned at approximately 8:30 p.m. to be convened on Wednesday, August 27, 2014 to hear deferred agenda item number 7.” I think that adds more clarification to what actually happened.

MOTION made by Karen Barrows to accept the minutes from August 11, 2014. David Blankfard seconded.

VOTE: Unanimous

1
2 Larry Wright: I think this testifies to the quality of work that is done by our secretary and the planning
3 staff. I would like to move on to our agenda and it is on page 135 of our packet.
4

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6 **AGENDA ITEM 5: PUBLIC CHARGE**

7
8 Larry Wright: Mr. Vice Chair, would you read the Public Charge.
9

10 The Board of Adjustment pledges to the citizens of Orange County its respect. The Board asks its citizens to
11 conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At any
12 time should any member of the Board or any citizen fail to observe this public charge, the Chair will ask the
13 offending person to leave the meeting until that individual regains personal control. Should decorum fail to be
14 restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is
15 observed. All electronic devices such as cell phones, pagers, and computers should please be turned off or
16 set to silent/vibrate.
17

18 The Board of Adjustment is a quasi-judicial administrative body established in accordance with the provisions
19 of local regulations and State law to perform specified functions essential to the County's planning program.
20 Action(s) taken by the board are based solely on competent, substantial, and material evidence presented
21 during a previously scheduled and advertised public hearing on a specific item. As detailed within Section
22 2.12.2 of the UDO the Board chair reserves the right to exclude evidence and testimony that is deemed:
23 'incompetent, irrelevant, immaterial, or unduly repetitious' and therefore fails to reasonably address the issues
24 before the Board of Adjustment. While it should be noted there is no time limit on the presentation of
25 evidence, the Chair asks that the presentation of evidence be consistent with established policies, rules of
26 procedure, and acceptable levels of decorum to ensure a fair and equitable hearing for all parties.
27

28
29 **AGENDA ITEM 6: A-3-14 – Special Use Permit – Utilities: Gas Transmission Lines**
30 **In accordance with Section(s) 2.7 Special Uses, 5.2.2 Table of Permitted**
31 **Uses 5.3.2 Application of Use Standards – Special Uses, and 5.9.5 Electric,**
32 **Gas, and Liquid Transmission Lines of the UDO, PSNC has submitted a**
33 **proposal to install a new gas transmission line on several properties within**
34 **Orange County. The project will involve the establishment of a new**
35 **easement, installation of new gas line.**
36

37 Larry Wright: I would like to ask our attorney to make a statement please.
38

39 James Bryan: I am just going to make a hopefully short statement about the general process. A lot of
40 this is already, what has already, been read but it bears repeating. Today the Board will consider a
41 request by the petitioner for a special use permit. Now this requires a quasi-judicial hearing in front of
42 the Board where the Board is going to act as a judge based on established standards. The standards
43 are going to be as detailed within the Unified Development Ordinance. Unlike other public hearings,
44 which are based on legislative decisions where the Board can hear pretty much anything, public
45 comment or public opinions or anything like this. By state statute, the Board can only hear substantial,
46 competent and material evidence. They are going to use a fair trial standard that is going to apply to the
47 proceeding, meaning that while employing something less than the formality of the Rules of Evidence
48 used in a courtroom, basic due process is going still apply and protect the individual. It is the petitioner's
49 burden to produce sufficient evidence to show that all standards are met by the proposed use. The
50 evidence must be of a quality and quantity to support such a conclusion. All evidence must be
51 substantial, competent and material. In sort of every day terms, the evidence is trustworthy, relevant and
52 supports a conclusion. Those conclusions are those standards that are in here. Some matters may
53 require expert testimony. For example, the General Statutes specifically prohibit lay opinion on property
54 value and traffic safety. On those things, the public can't give an opinion unless they are an appraiser or

1 traffic engineer or something like that. All parties must establish standing before offering evidence. All
 2 persons offering must be sworn under oath and be subject to cross examination. All exhibits must be
 3 given to the clerk and will become part of the record. Witnesses are asked to refrain from irrelevant,
 4 immaterial or unduly repetitious material. I apologize; I am being a little unduly repetitious with this.
 5 Parties other than the petitioner are asked to designate a spokesperson or agent for cross examination
 6 and calling of witnesses. If the parties are unable to come to such an agreement, please advise the
 7 Chair. Evidentiary objections will generally be noted but not ruled upon at the time of objection. Once all
 8 evidence has been gathered, the Board will then move to deliberations. During deliberations, the Board
 9 will consider the whole record and will only rely upon substantial, competent, material evidence in
 10 determining the basis for its decision. Thank you Mr. Chair.

11 Larry Wright: I would like to add that this Board has very limited powers and the powers of this Board is
 12 that we hear applicants and applications and we hear them in terms of if they conform with the Orange
 13 County Unified Development Ordinance and/or the 2030 Comprehensive Plan. That is it. That is all we
 14 can consider so moving forward, I would like to have all those who have signed up to speak group
 15 around this bible and you don't have to touch it, just kind of do that and I'll swear you in once everybody
 16 is up there. Attorneys and judges do not have to be sworn.

17 **Individuals Sworn:**

18 Jerry Raines
 19 David Laudicina
 20 Timothy Ives
 21 Jason Thomas
 22 Aaron Tarter
 23 Markus Lesemann
 24 Jean Earnhardt
 25 Jay Bryan
 26 Matthew Rhoads
 27 Robert Priester (Project Lead Engineer)
 28 Andrew Moore (Engineer)
 29 Steve Hancock
 30 Wendy Feldman
 31 Kenneth Feldman
 32 Ann Oliver
 33 Thomas T. Averette
 34 Joseph Zaragoza
 35 Susie Thompson

36 Larry Wright: When you come up to speak, please state your name and that you have been duly sworn.
 37 Mr. Harvey.

38 Michael Harvey: Mr. Chairman, Michael Harvey with the Orange County Current Planning Department. I
 39 have been sworn. It is my job this evening to present to you staff's abstract on this particular item. As
 40 you have already indicated, the abstract begins on page 135. There are several attachments that I
 41 would like to call to your attention at this point in time. Specifically, we have Attachment 1 which is a list
 42 of the properties and maps of the subject properties to this permit and it begins on page 143. We have
 43 PSNC's application which begins on page 151. That is Attachment 2. Attachment 3 is the certification of
 44 mailing. It begins on page 183. Attachment 4 is a Findings of Fact assessment completed by Staff that
 45 begins on page 271. You also had in your packet the 11x17 site plan submitted by PSNC showing the
 46 layout and location of the proposed gas line. We have provided you an additional copy this evening to
 47 ensure you had it. You also have a couple of items at your places. Specifically, you have an email and
 48 letter submitted by Mr. Joseph Garcia and a Ms. Janet Morris Jones associated with this project and you
 49 have a memorandum provided by Mr. Rich Shaw of the Orange County Department of Environment,
 50 Agricultural Parks and Recreation. Mr. Chairman, at this time, with your indulgence, I would like to enter
 51 my Abstract along with all four attachments, as well as a copy of the Unified Development Ordinance and
 52 these two emails and this memorandum into the record please.

1 Larry Wright: The emails are from Mr. Garcia....

2 Michael Harvey: And Ms. Jones and the memorandum from Mr. Shaw.

3 Matthew Rhoads: We actually object to admitting the emails either in abstract or the ones from Mr.
4 Garcia and Ms. Jones on the basis that is unsworn evidence and it is hearsay. We are not able to cross
5 examine them on anything they said.

6 Michael Harvey: Could you state your name please.

7 Matthew Rhoads: Matthew Rhoads, I am an attorney with Smith Anderson Law Firm representing PSNC
8 Energy and I have been sworn.

9 James Bryan: I believe he is correct that any of the testimony has to be said in person. You can accept
10 it but it will have little or no value at all. Perhaps to collaborate something else. It certainly may not be
11 used as support for any key finding so you cannot accept it, you can accept it and give it its due weight
12 which I would recommend is near nil.

13 Larry Wright: I would like to accept it and give its due weight because there are some things that do
14 support or do...well let's say we have Mr. Joseph Zaragoza and it is sort of kind of a companion to
15 what he says so if Board members want to ask questions about Mr. Zaragoza's in the packet, we can
16 refer to this too. Is that right?

17 James Bryan: Without knowing what you intend specifically, yeah, it is a common practice to go ahead
18 and accept it.

19 Larry Wright: I would like to accept this for the Board's reference.

20 Michael Harvey: Mr. Chairman, I would also like the Board to take notice, PSNC has provided staff this
21 evening, with documentation of existing easements as well as additional information concerning the
22 permits that they have either been issued or submitted for this particular project. These permits include
23 authorization from the North Carolina Utility Commission, Army Core of Engineers, Section 4 for Wetland
24 Impacts, US Fish and Wildlife response to review this application, North Carolina Division of Water
25 Resources, the North Carolina National Heritage Program, State Historic Preservation Office, North
26 Carolina Department of Transportation, Erosion and Sedimentation Control Plan and permits issued by
27 the Orange County Planning Department regarding the potential flood plain crossings for the proposed
28 gas line. I would like those entered into the record as well. I am afraid I only have the one copy but they
29 can be distributed. I would like those entered into the record.

30 Larry Wright: So these will be referred to specifically.

31 Michael Harvey: Applicant Exhibits 1 and 2.

32 Larry Wright: I am going to put these on the center of the table.

33 Michael Harvey: And Mr. Chairman, without further ado since the hour is getting a little late and we have
34 several people who would like to speak this evening, I would like to summarize staff's abstract. As you
35 know, we are here reviewing a proposal by PSNC to install a 16 inch gas transmission line from
36 Alamance County along Mebane Oakes Road to an existing regulator station on Old North Carolina
37 Highway 86 within the Town of Carrboro's planning jurisdiction. It should be noted that county planning
38 staff has had several inquiries from property owners in this given area of Carrboro along Old North
39 Carolina Highway 86 specifically about whether or not those properties are subject to this petition. They
40 are not. There are several groups of properties that while not formally within the corporate limits or within
41 the extra territorial jurisdictional boundary of the Town of Carrboro are subject to the Town of Carrboro's
42 Land Use Development Regulations per the Orange County/Carrboro/Chapel Hill Joint Planning Land
43 Use Plan. This is what is referred to as transition areas. These groups of properties are actually subject

1 to the Town of Carrboro's Land Use Regulations. The permit for the pipeline going through Carrboro
2 was handled on a staff review level and they have held off on processing that permit until the conclusion
3 of this hearing. Ordinance Requirements for this particular project are found within Section 5.9.5 of the
4 Orange County Unified Development Ordinance. Very briefly, the applicant is required to submit a site
5 plan. The Standard of Evaluation for this project are as follows and that is found in Section 5.9.5 (2) that
6 adequate provision has been made to protect adjacent property owners from the dangers of explosion,
7 rupture, collapse, fire or other menace to public health and safety. The public convenience and
8 necessity shall be served by the project and the applicant shall submit proof of liability insurance
9 covering bodily injury and property damage demonstrating a minimum coverage limit of \$500,000 per
10 occurrence. I would like to remind the Board that Attachment 2 of your abstract, which you have already
11 entered into the record, contains the application including a detailed narrative providing answers to these
12 questions as well as proof of their liability insurance coverage which is \$1,000,000 per occurrence,
13 \$500,000 in excess of the County standard requirement. Some brief comments about the site plan,
14 sheets two and three, 37 and 46, contain a project description as well as the construction sequence, the
15 Erosion Control Sedimentation Control Management Plan and various notes detailing the parameters
16 under which this project will operate. As we articulate in this abstract, the applicant is required to obtain
17 state issued erosion control storm water management permits prior to the commencement of earth
18 disturbing activities. We have a condition which we will get to in a minute or a little later this evening, you
19 are going to note that as we point out in our abstract, and I'm on page 137 that there appear to be sheets
20 missing. That is specifically sheets 4 through 15. Those are for portions of this project within Alamance
21 County and not subject to Orange County's permitting review process. They will be handled and
22 processed by Alamance County independent of any action taken this evening. The applicant's narrative
23 contains information related to the compliance with other provisions of the Orange County Unified
24 Development Ordinance specifically dealing with, as I have already articulated, Subsections A and B of
25 5.9.2 of the UDO, Adequate provision has been made to protect adjacent property owners and the public
26 convenience and necessity shall be served by this proposed installation. I would also like to point out
27 that their abstract, excuse me; their narrative contains responses on how this project complies with
28 Section 5.3.2 of the Orange County Unified Development Ordinance detailing the general standards for
29 all special use projects. We will review those in a little more detail in a few moments. I would like to
30 state for the record as articulated in the abstract that a transmission line as proposed is a permitted use
31 in Orange County subject to the issuance of this permit. We have received comments from various
32 county agencies, most notably; you have before you a new memorandum issued by Environment
33 Agricultural Parks and Recreation, Environmental Health have indicated there are no permits necessary
34 from their department since this will not involve the installation of septic systems. Erosion Control Storm
35 Water Engineering, it's going to be following state parameters and guidelines and be required to get a
36 permit through the state and not Orange County as this involves public funds. Building inspections, there
37 will be no locally issued permits. Again, it will be a state permitted project. Solid Waste, the site plan
38 contains the required notes that Solid Waste has indicated is necessary to deal with the disposal of
39 waste generated from this project. Emergency services, the sheriff, we have a comment from the
40 Orange County Fire Marshal; they would like to ensure there is appropriate language within easement
41 documents providing for emergency personnel access to the pipeline. They have also requested that the
42 applicant schedule an appropriate time of meeting with emergency services personnel and local
43 volunteer departments to review development of emergency action plan in the event of a gas line
44 incident occurs. The Department of Transportation has indicated they have no concerns related to this
45 project. Obviously, appropriate encroachment agreements will be necessary and some of the
46 information you are now looking at addressing some of those concerns from the Department of
47 Transportation. As you all know, we do not make recommendations with respect to this project's
48 compliance with Section 5.3.2 (A) 2 and I am paraphrasing greatly but this is on page 139 of your
49 abstract. First that the use will maintain or promote the public health safety and general welfare.
50 Number two, the use will maintain or enhance the value of contiguous property and I should add that the
51 ordinance says unless the use is a public necessity in which case the use need not maintain or enhance
52 the value of contiguous property and last but not least, location and character of the use if developed
53 according to planned is in harmony with the area and is consistent with the physical development of the
54 County as embodied not only in our zoning regulations but also within the adopted comprehensive plan.
55 Beginning on page 140, staff has identified several goals that we believe support this application

1 specifically from the Orange County Comprehensive Plan. I will also reiterate also detailed on page 140,
2 we have received extensive feedback on this particular project. I will say that most of the feedback, as of
3 this date, has not been positive. A synopsis of these concerns is articulated herein. What I will say, as
4 articulated in this abstract and as staff has articulated and as staff has articulated in several residences
5 who have called, while county planning staff sympathizes, unfortunately, many of the issues involving
6 compensation issues, ambiguity with easements, or the methodology utilized by PSNC to secure
7 additional easement area, is not the purview of the County Planning Department nor is it the purview of
8 the Orange County Board of Adjustment to address. Unfortunately, the state's statutes provide
9 parameters for these issues and how they will be addressed. We have referred people to the State
10 Utilities Commission as the Attorney General's office, as well to PSNC to have their questions answered
11 with respect to some of those issues that have cropped up. Unfortunately, it is just not a mechanism we
12 can address or deal with.

13 Larry Wright: The legislature can, can't it?

14 Michael Harvey: Yes sir. But there are already regulations established dealing with that. We have also
15 received a request from Mr. Joseph Zaragoza; he has signed up to speak this evening. He has
16 conditions he would like to ask this Board to impose. Those are located on page 141. I need to add for
17 the record so this Board understands, and I have already let PSNC know this as well, Mr. Zaragoza, his
18 family and I have a 25 year relationship. We are neighbors. His family and my family essentially grew
19 up together and I think that needs to be known by everyone involved in this meeting before we move any
20 further. We did, as you will note on page 141, attend an open house meeting on August 1 with several
21 local property owners to try to answer some of the questions related to this project. I would like to say
22 the meeting was productive, unfortunately, I don't believe staff was able to address all their issues or
23 concerns. The majority of those individuals are here tonight, I will let them speak for themselves. I will
24 not, on page 142, reiterate the review of this permit; I think it has already been done eloquently by the
25 county attorney. Mr. Chair, at an appropriate time, I will review the script Findings of Fact in Attachment
26 4 when you ask. So if there is no further ado and no direct questions for staff, I would like to turn it over
27 the applicant to present their application.

28 Larry Wright: Before you do that, do the Board members have any questions for Mr. Harvey. Okay.

29 Matthew Rhoads: Good evening, my name is Matt Rhoads, attorney with Smith Anderson, representing
30 PSNC Energy, the applicant. Before I forget, let me give the secretary my card. First of all, just for the
31 record and to preserve any issues on appeal, we actually object to even being required to get this permit.
32 The construction, installation, operation, safety, all of those elements of the gas pipeline are completely
33 and heavily regulated by the North Carolina Utilities Commission and the Federal Department of
34 Transportation. We are happy to go through this process and we believe it is a good process to explain
35 our project to the community but to preserve that issue for appeal if that were necessary. We need to
36 note our objection that we believe it is preempted by State and Federal Law and this permit is not
37 required. As Mr. Harvey indicated, it is a quasi-judicial hearing to establish if we meet the criteria under
38 the ordinances which are under 5.3.2 and 5.9.5. If we meet those with competent material evidence then
39 we are entitled to the permit. Very briefly, those criteria are the use will maintain or promote the public
40 health, safety and general welfare. The use will maintain or enhance the value of contiguous property
41 unless the use is a public necessity in which case the use need not maintain or enhance the value of
42 contiguous property. The location and character of the use, if developed according to the plan submitted
43 will be in harmony with the area in which is located and is in compliance with, and I'm paraphrasing with
44 the Comprehensive Plan and other development ordinance; the method and adequacy of provision for
45 sewage disposal facility, solid waste and water; method and adequacy of police, fire and rescue squad
46 protection; method and adequacy of vehicular access to the site and traffic conditions. The additional
47 submittal requirements that Mr. Harvey went through, the site plan, erosion and sediment control plans,
48 cross sections, plans and elevations, certification that the applicant is a public utility. That has been
49 satisfied according staff. We have complied with that. Adequate provision to protect adjacent property
50 from the dangers of explosion, rupture, collapse, fire, or other menaces to public health and safety.
51 Public convenience and necessity shall be served by the proposal and applicant has submitted proof of
52 liability insurance which again, Mr. Harvey has indicated, we have already complied with and I believe in

1 the abstract, Mr. Harvey, feel free to correct me if I'm wrong, staff has indicated that it is compliance with
2 the Comprehensive Plan and the other development ordinances so we would submit that has already
3 been established. That being said, with me today, I have Rob Priester with PSNC Energy. Rob is a Civil
4 Engineering, received a Civil Engineering degree from Clemson University. He is a licensed professional
5 engineer. He has been an engineer on gas pipeline work for about 7 years doing pipeline design and
6 engineering and project management. Also, with me tonight is Andrew Moore, in the blue shirt over
7 here. Andrew received his Civil Engineering from NC State. He has been a licensed professional
8 engineer since 2000. He has had 19 years of progressive pipeline experience with Piedmont Natural
9 Gas, North Carolina Natural Gas and PSNC Energy including pipeline design and engineering, pipeline
10 integrity management, regulatory compliance among other things. We would tender both of these
11 witnesses as experts in pipeline design, construction, operation and safety. I don't know if that is
12 something you guys typically rule on if it is tendered.

13 James Bryan: Not unless there is an objection.

14 Matthew Rhoads: Very briefly and I think I am also cognoscente of the fact of how many people are going
15 to speak here tonight, the summary of the project; this is a 16 mile long 16 inch natural gas pipeline that
16 is going from Graham in Alamance County to Carrboro and Orange County. The entire length of that is
17 parallel in existing 10 inch natural gas pipeline. It is within, I believe, about 10 feet of that existing line for
18 the most part. There are a couple of places where we had to jog around for different reasons. The vast
19 majority of it is in existing right of way that PSNC has already acquired in the 1950s for that 10 inch
20 pipeline but it specifically grants the right to install an additional pipeline with some additional payment
21 which we will make as required by the easements. For about half of the length of the project in Orange
22 County, it is also paralleling a 24 inch natural gas pipeline that owned by Cardinal Pipeline Company,
23 something along those line so for about half the project, there is already an existing 24 inch pipeline and
24 existing 10 inch pipeline and then this would be the third pipeline right beside there and Cardinal has its
25 own easement that is separate and apart from PSNC's. Again, primarily, this is all being installed with an
26 existing right of way and we are complying with those easement requirements. At this time, I would call
27 Rob Priester to give some additional evidence. I believe, Mr. Priester, you have already been sworn?

28 Rob Priester: I have been sworn. I am Robert Priester with Scana and PSNC Energy.

29 Matt Rhoads: And if you would just state your address. Your work address

30 Rob Priester: It's 100 Scana Parkway, Casey, South Carolina 27033.

31 Matt Rhoads: And what has your role been with the project?

32 Rob Priester: I am the project manager. We have outside consultants that I am overseeing.

33 Matt Rhoads: And did you help prepare the application in this matter?

34 Rob Priester: Yes.

35 Matt Rhoads: And everything in the application true and accurate to your knowledge?

36 Rob Priester: Yes.

37 Matt Rhoads: And is it your understanding that staff believes the application to be complete?

38 Rob Priester: Yes.

39 Matt Rhoads: And PSNC has submitted the plans and documents required by Sections 5.32 and 5.95
40 and of the Unified Development Ordinance? Is that correct?

41 Rob Priester: Yes.

- 1 Matt Rhoads: Again, staff indicates that the plans and documents that need to be submitted have been
2 submitted?
- 3 Rob Priester: Yes. We do still have a couple of those pending permits that I would like to mention but as
4 soon as those approval letters are received by PSNC, we will submit those to the County as well.
- 5 Matt Rhoads: And you have coordinated obtaining the permits and getting the notifications or giving the
6 notifications involved?
- 7 Rob Priester: Yes.
- 8 Matt Rhoads: What types of permits and notifications have been involved so far?
- 9 Rob Priester: We have had our PHMSA and notification.
- 10 Matt Rhoads: Can you briefly explain what that is?
- 11 Rob Priester: That is notifying our regulator, on the federal level, the, any project that we have over 10
12 miles, we have to notify within six months of prior to construction, we have to send them notification of a
13 project going on in the area.
- 14 Matt Rhoads: And have you also notified the North Carolina Utilities Commission?
- 15 Rob Priester: We have notified the North Carolina Utilities Commission. That is, I believe, a month
16 notification with a G2 form and we also have a secondary form that we send to them after the completion
17 of construction.
- 18 Matt Rhoads: And you have gone through the US Army Corp of Engineers Wetlands Permitting?
- 19 Rob Priester: We do. We have an approved permit through the Corps of Engineers.
- 20 Matt Rhoads: And United States Fish and Wildlife regarding endangered species?
- 21 Rob Priester: Have scoping letters from the US Fish and Wildlife.
- 22 Matt Rhoads: What does that mean? Scoping letters?
- 23 Rob Priester: We speak with the agencies and determine whether or not a permit is needed based on
24 the impact of the project. In this instance, the US Fish and Wildlife, we did not continue further past the
25 scoping letter.
- 26 Matt Rhoads: You have spoken with the North Carolina Department of Environment and Natural
27 Resources regarding water quality?
- 28 Rob Priester: Yes.
- 29 Matt Rhoads: Do you have a permit through them, a 401?
- 30 Rob Priester: We received the 401 permit; we have a couple of amendments to make. So again, that
31 will be, once the final permit copy is approved, we will make sure you get a copy of it but we have it. We
32 received that this past week I believe.
- 33 Matt Rhoads: North Carolina Natural Heritage. Is there a permit received for that or just a notification?
- 34 Rob Priester: I believe that was just an open letter as well.
- 35 Matt Rhoads: North Carolina State Historic Preservation.

1 Rob Priester: I believe that was a scoping letter.

2 Matt Rhoads: North Carolina Department of Transportation.

3 Rob Priester: That permit is pending. We have a separate permit for Alamance and Orange County.
4 We have communication with NCDOT. As of now, we don't foresee any issues with what has been
5 submitted.

6 Matt Rhoads: Erosion and Sedimentation Control Plans with Orange County.

7 Rob Priester: Yes sir. Again, we have one in Alamance and Orange County we have multiple permits
8 there.

9 Matt Rhoads: And will any of the proposed facilities require sewage disposal or solid waste disposal or
10 provisions of water?

11 Rob Priester: No.

12 Matt Rhoads: And you have submitted proof of insurance as required by Section 5.95?

13 Rob Priester: Yes. We submitted that as part of the application.

14 Matt Rhoads: Can you just talk a little bit about the purpose of the line. . Why PSNC is proposing this
15 line.

16 Rob Priester: We are proposing this pipeline to serve the public. We are proposing the project in order
17 to serve the Chapel Hill/Duke/Durham and the surrounding areas of you have probably noticed
18 additional pipeline projects along many of the roadways. The project will feed some of those distribution
19 systems that are in the area.

20 Matt Rhoads: And is the high demand due to growth in the area?

21 Rob Priester: It is.

22 Matt Rhoads: Environmental concerns, cleaner burning natural gas.

23 Rob Priester: Natural gas is one of the cleanest burning fossil fuels so there is a demand based on that.

24 Matt Rhoads: The relative low price of natural gas. Is that also driving demand?

25 Rob Priester: Yes.

26 Matt Rhoads: And if this project is not completed, will there be an adequate supply of natural gas in the
27 area?

28 Rob Priester: No. We need PSNC needs this pipeline to be able to serve its customers.

29 Matt Rhoads: Will the pipeline serve the public convenience then?

30 Rob Priester: Yes.

31 Matt Rhoads: And the public necessity would be served by this pipeline?

32 Rob Priester: Yes. We serve residential, commercial and industrial customers in this growing area.

33 Matt Rhoads: If we inquire a little bit about the route of the pipeline, why did PSNC choose to run it
34 parallel to the existing 10 inch line for most of the way, the 24 existing line?

1 Rob Priester: We feel like that is the least impactful route because there is already an existing right of
2 way in the area to lay it adjacent to the existing pipeline. It requires us to take less space for working
3 room, less space for permitted maintenance and it is also not exactly a straight line but it is a pretty
4 straight line from where our source is received to where the supply is needed at the end.

5 Matt Rhoads: And you are able to use the existing right of way?

6 Rob Priester: By enlarge, yes.

7 Matt Rhoads: Without having to apply a new right of way or affecting new property owners?

8 Rob Priester: Yes.

9 Matt Rhoads: Does this also help reduce the impact on the property values because you are already
10 going along the route that already has pipelines that would have affected property values?

11 Rob Priester: We feel like it does because you are already in an existing corridor.

12 Matt Rhoads: Do you believe that following the existing right of way helps make this more harmonious
13 with the existing conditions in the County?

14 Rob Priester: We do because we feel like it is not really changing the land use, like I said, there has
15 already been a pipeline in this location by enlarge since 1952 and so by installing this pipeline within 10
16 feet we are installing it as closely as possible we can to meet those requirements.

17 Matt Rhoads: And the majority of the facilities are underground, is that correct?

18 Rob Priester: Yes. We have valve spacing which will be in the Nicks Road area right as we come into
19 the, really right as we come in to Orange County and then we have a station downstream of the project
20 but everything else is below ground other than the required markers that are required by our code and
21 things of that nature.

22 Matt Rhoads: And does the project comply with the Comprehensive Plan and other development
23 ordinances of the County?

24 Rob Priester: Yes.

25 Matt Rhoads: And it is your understanding that the staff also agrees and that it is in compliance with
26 those?

27 Rob Priester: Yes. That is my understanding.

28 Matt Rhoads: How will PSNC access the pipeline?

29 Rob Priester: Once construction is completed, we will continue to access it the same way the 10 inch
30 pipeline is accessed now.

31 Matt Rhoads: So there will not be any additional impact from access?

32 Rob Priester: We have a few where there are restrictions within the existing easements we are trying to
33 work through with those affected landowners but those are few and far between.

34 Matt Rhoads: And will there be any increase in the volume, the frequency of access?

35 Rob Priester: We will have the same maintenance activity that go along with the 10 inch pipeline as with
36 the new 16.

1 Matt Rhoads: Is there adequate fire, police, and emergency medical services coverage for this pipeline,
2 for the proposed pipeline?

3 Rob Priester: We feel like there is, yes.

4 Matt Rhoads: I guess fire, police and EMS are already covering the existing 10 inch and existing 24
5 inch. How does PSNC work with first responders like that?

6 Rob Priester: We go through first responder training. We have damage prevention plans as all
7 requirements of our federal regulations. As part of those, I believe, yearly training. That would go
8 through the local residents. Obviously if the county staff with the fire marshal would like to meet, we
9 would welcome any opportunity to meet with any first responders. We have actually met with, I believe it
10 is the Oak Grove Fire Department. We have already met with one fire department but I think that was in
11 Alamance County. Don't quote me on the county for that one.

12 Matt Rhoads: Why not just replace the 10 inch line with a larger line? Why is it a second line?

13 Rob Priester: We cannot afford to take the 10 inch out of service as it serves different communities.

14 Matt Rhoads: Does having two lines provide some redundancy to prevent outages of service in the
15 future?

16 Rob Priester: It does. Having a secondary line, it allows, it is more of a liability in case, you know, one
17 would need to come out of service for any particular reason.

18 Matt Rhoads: If we can talk a little bit about safety, can you kind of describe how you guys are regulated
19 on design and construction and operation and inspection and maintenance and all these sorts of things?

20 Rob Priester: Ok. We are heavily regulated by PHMSA and the Department of Transportation.

21 Matt Rhoads: The Federal Department of Transportation.

22 Rob Priester: Yes. The Federal Department of Transportation which has delegated authority down to the
23 NCUC but is part of those title 49 Federal Regulation part 192 which sets forth your minimum safety
24 standards. Those involve the design, the material used, the installation practices and the ongoing
25 maintenance of the existing pipelines once they are in place. We meet or exceed all of those
26 requirements as part of those codes.

27 Matt Rhoads: So safety wise, can you explain kind of the materials used in what PSNC is doing to make
28 this as safe as possible.

29 Rob Priester: We have very stringent specification on the pipe that we use. It is a steel pipeline and the
30 It is American made steel pipeline that we feel like is the highest quality. As part of the regulations,
31 there is design formulas and things of that nature that limit what our maximum pressure we can run on
32 the line and just the way that we designed, we feel like that we have more than an adequate safety factor
33 into the pipeline.

34 Matt Rhoads: So does that mean that you are using materials that are ... would be enough for a higher
35 pressure line than what you are actually doing?

36 Rob Priester: Yes.

37 Matt Rhoads: And does the federal regulation require you to have emergency plans and damage
38 prevention plans?

1 Rob Priester: Yes they do, we have part of our federal permit process which we work within. There is
2 probably flyers that y'all have received yearly as part of those plans. We work with first responders. We
3 have, for the maintenance of the existing pipelines, we have aerial patrols, leak surveys, kind of a slew of
4 maintenance activities that we perform at different parts of the year so yes they are all requirements that
5

6 Matt Rhoads: What about a public awareness plan, does the federal regulations require that?

7 Rob Priester: Yes. We are happy to meet with any landowner at any time and any place to talk about
8 that but

9 Matt Rhoads: Do the federal regulations govern how much ground cover the pipeline has to have?

10 Rob Priester: Yes they do.

11 Matt Rhoads: And do they govern separation between pipelines? How far apart two pipelines need to
12 be?

13 Rob Priester: They specify underground clearances, they don't necessarily the clearance is...

14 Matt Rhoads: And do they require an integrity management plan?

15 Rob Priester: Yes.

16 Matt Rhoads: And I believe you said the Utilities Commission also has construction and safety
17 standards, is that right?

18 Rob Priester: It is part of enforcing the DOT regulations.

19 Matt Rhoads: You mentioned the leak detection and aerial inspection. Do you do guys do any inline
20 inspections and can you describe what that is if you do?

21 Rob Priester: Inline inspection is technology that is coming along. These new pipelines that we design,
22 they are designed to take basically a tool. It is called a smart pig and basically what that is looking at is
23 you are inserting something into the pipeline, you are moving it with the flow of gas and you are looking
24 at the pipeline from the inside as well as looking at it from the outside. That technology is evolving just
25 like any technology so the newer tools are out there regularly and this line has been designed to facilitate
26 the running of one of those tools.

27 Matt Rhoads: And what kinds of things can the pig tell you?

28 Rob Priester: Any anomalies, typically many anomalies with the pipe have to do with the curvature. Any
29 kind of damages. Just any kind of defect or anomaly that would be with the pipeline.

30 Matt Rhoads: Like corrosion?

31 Rob Priester: Yes.

32 Matt Rhoads: Thickness. Any anomalies in the thickness of the pipeline.

33 Rob Priester: Yes.

34 Matt Rhoads: And what about cathodic protection. Do you guys utilize that and what is that?

35 Rob Priester: We do. We put cathodic protection on the pipeline. It is kind of two fold because we have
36 a coating that goes on the outside to help protect the steel. But also with the cathodic protection system,

1 that gives, there is anodes and cathodes and as materials degrade, something will degrade, it allows for
2 something to degrade other than the pipeline.

3 Matt Rhoads: So it protects against corrosion?

4 Rob Priester: Yes.

5 Matt Rhoads: You mentioned before that this pipeline will either meet or exceed all federal and state
6 requirements. Can you talk a little bit about the pipeline is exceeding those requirements.

7 Rob Priester: Yes. From a materials standpoint, we designed to a class location that is greater than
8 what is present. Most what that has to do with is population density. It gives us a higher safety factor.
9 With this pipeline, we will, as part of our testing procedures, we will ensure that the pipeline is tested to at
10 least 1.5 times what it will operate at. We will non-destructively test all of the wells that are made in the
11 field. There is many number of things that we do to make sure that we meet or exceed.

12 Matt Rhoads: When you mention the class, so are you saying this pipeline is being designed as if it is
13 going through a much more densely populated area that it is acutely is. It is going with those regulations
14 from more densely populated areas?

15 Rob Priester: That has to do with some of the maintenance. That has got to do with the design and
16 maintenance activities on the line. Yes, essentially.

17 Matt Rhoads: And what about ground cover? What is the minimum ground cover that this pipeline can
18 have under the federal regulations?

19 Rob Priester: Ground cover varies depending on where you are and the type of portal that you are in but
20 the minimum is 18 inches and we are proposing typically at a depth of four feet for areas that are not
21 under roadways and streams and things of that nature.

22 Matt Rhoads: And under way roadways and streams, they would be deeper than four feet?

23 Rob Priester: Yes. Deeper.

24 Matt Rhoads: Briefly, can you explain what the Integrity Management Plan or program is and how that
25 helps with the safety of the pipeline.

26 Rob Priester: The Integrity Management Plan is basically once the pipeline is in place; it is maintaining it
27 to make sure it is in good condition and good servicing condition. As part of those integrity plans, you
28 have things such as your aerial patrols, your weeks surveys, the damage prevention plans, emergency
29 action plans. Again, there is a whole number of things we can discuss there but it is encompassing
30 basically once the line is in service, it sets forth the federal minimum standard for what we need to do to
31 maintain the pipeline.

32 Matt Rhoads: That would include the inline inspection, the pigging you talked about?

33 Rob Priester: As part of our plan.

34 Matt Rhoads: And is that plan audited by the federal regulators?

35 Rob Priester: Yes. As part of the code requirements.

36 Matt Rhoads: Does the width of the right of way, does that help protect the line as well?

1 Rob Priester: One of the biggest issues we have and other gas companies have is outside damage or
2 third party damage. The width of the right of way and having a cleared and maintained right of way helps
3 us to protect against third party damage.

4 Matt Rhoads: And what about the separation between the existing pipelines? I believe they are
5 separated by about 10 feet. Does that help you protect the line as well?

6 Rob Priester: That is our proposed and again, that is above what the minimum standard would be. Both
7 minimum requirements from the code but yes that allows us to safely construct a secondary pipeline
8 adjacent to a new one.

9 Matt Rhoads: And will the project as proposed maintain the public health and safety?

10 Rob Priester: Yes.

11 Matt Rhoads: And as proposed will it adequately protect from explosion, rupture, collapse, fire or other
12 meniscus to public health?

13 Rob Priester: Safety is our top priority. We design all pipelines and operate all pipelines as safely and
14 efficiently as possible. Part 192 dictates as many of the regulations that dictate how we operate and how
15 we maintain our pipelines and we meet or exceed anything and everything that is in the code.

16 Matt Rhoads: So is that a yes.

17 Rob Priester: Yes.

18 Matt Rhoads: That is all I have for Mr. Priester unless the Board has questions.

19 Larry Wright: Board have questions for Mr. Priester?

20 David Blankfard: How often is the pig run done on the line?

21 Rob Priester: Integrity related questions, those are typically

22 Matt Rhoads: If you are okay with it, Andrew Moore may be better suited to answer those integrity
23 questions.

24 Andrew Moore: I am Andrew Moore and I have been sworn. The MI inspections are part of our Pipeline
25 Integrity Management program and we are required to perform some type of physical assessment of our
26 pipelines every seven years depending on the operating stress of the pipeline that sort of establishes the
27 frequency in which we have to do certain types of assessments so for a pipeline operating at a low to
28 moderate stress level, we would be required to perform an inline inspection maybe every 15 or 20 years.
29 For a pipeline operating at a higher stress level, it would be every 10 years, some type of inspection has
30 to be performed at least every seven as part of the Integrity Management Plan and also realize that the
31 Integrity Management Program is something that started in 2004 and these are supplemental
32 maintenance and inspection requirements that are above and beyond all the other inspection
33 maintenance requirements that the code has imposed since 1970 I guess. There is all sorts of annual
34 type maintenance that is performed and these are in addition to that.

35 David Blankfard: What is the pressure that this line will be running at?

36 Andrew Moore: It will be running at 800 psi.

37 David Blankfard: And what is the one that the 10 inch is running at?

38 Andrew Moore: 800. They will operate both at 800 psi.

1 David Blankfard: Do you know what the 24 inch is being run at?

2 Matt Rhoads: That is not our pipeline.

3 Andrew Moore: The 24 inch is designed to operate up to 1,000 psi.

4 Rob Priester: Let clarify, the 16 will be designed to operate at that 1,000 but it will not operate that high.

5 David Blankfard: What is the normal pressure for these types of pipes? Is 800 a common range?

6 Andrew Moore: For PSNC it is. Our supplier is Williams Transco and a majority of their pipelines are
7 operated at 800 PSI so that is the pressure we get in them. That is what our pipelines operate at.

8 David Blankfard: How large is the right of way currently?

9 Matt Rhoads: The easements are 50 feet is the necessary right of way for having the two pipelines
10 there. Most of these easements are from the 1950s where it was not common practice to specify a width
11 but even in the 1950s to have two pipelines, which these easements permit, you needed at least 50 feet
12 and, obviously they can speak to it better, but there has got to be room for if you dig you have to have
13 your trench at the right for OSHA, a place to pile the dirt and all that sort of stuff.

14 David Blankfard: What is the depth of the existing 10 inch? What is the cover of the existing 10 inch
15 line?

16 Rob Priester: It is going to vary throughout the existing line.

17 Jeff Schmitt: What is the minimum?

18 Andrew Moore: At the time it was constructed, there was no minimum. From our studies where we have
19 gone and located the line and taken depth measurements, the ... I want to say that the shallowest point
20 we have identified has been 30 inches.

21 David Blankfard: Has there been any problems with that existing 10 inch line in the last, since 1950
22 when it was put in?

23 Andrew Moore: No problems other than we did have a problem seven or eight years ago. As part of a
24 new DOT project, we went out and relocated the part of the pipeline for them and after the relocation,
25 they hit the pipeline so it was third party damage but nothing was no failure because of lack of
26 maintenance or anything like that.

27 David Blankfard: So you have an existing 10 inch that was put in 1950ish and now we are at 16 inch,
28 what drove the 16 inch, why not a 24 or another 10?

29 Andrew Moore: The existing 10 inch is reaching its capacity. In other words, we can't really serve any
30 additional loads off of that line so we need additional capacity so we are building this new line to meet
31 our current needs and the needs we have currently prescribed and as well as for some additional future
32 capacity. We feel the 16 inch will satisfy that for a good number of years just as the 10 inch has satisfied
33 that for 60 years. Our intent is for this pipeline to satisfy that future load for another 10, 20, 30 years.

34 Mark Micol: What is the average lifespan for the line?

35 Andrew Moore: I don't know that there is a ... at this point in time; I don't know that a lifespan is defined.
36 For PSNC, our oldest pipeline, this is one of the oldest, our vantage line is the first pipeline that PSNC
37 installed so our oldest pipeline is 60, 62 years old which is within the industry is young compared to other
38 operators. You have pipelines that were built in the 1920s and 30s and are still in operation today.

1 Mark Micol: You have specifications on the Cardinal pipeline 24 inch as far as depth and age in your
2 information on the Cardinal.

3 Rob Priester: Depth of cover, I don't have any age, it was put in 1999 but we are working with the
4 Cardinal Pipeline as part of this project to makes sure we have all our bases covered with them.

5 Mark Micol: Mr. Harvey was an SUP required in 99 for that pipeline?

6 Michael Harvey: We have no record of one, sir.

7 Mark Micol: How about other projects that PSNC has done in the County, have they been required to
8 have an SUP?

9 Michael Harvey: PSNC recently did a project expanding an existing pipeline from the regulator station in
10 Carrboro where this line will terminate along North Highway 86 through Eubanks, Millhouse, Mt. Sinai
11 Road toward Durham County. That pipeline was located primarily and solely within North Carolina
12 Department of Transportation right of way as such we did not require the special use permit because we
13 don't regulate development within the right of way.

14 Jeff Schmitt: When you were talking a few minutes ago about testing, there was a comment you made
15 about wells in the field. You said something about wells in the field. What does that mean?

16 Rob Priester: When the pipeline is shipped, it is going to be shipped in roughly 60 foot joints, sticks of
17 pipe. You weld each of those pieces together with qualified welders.

18 Jeff Schmitt: Welds.

19 Matt Rhoads: He has the South Carolina draw, not the North Carolina.

20 Jeff Schmitt: I am sure a lot of the testimony we will hear from folks will relate to the safety issues about
21 this. Could you sort of speak about the safety record of PSNC across North Carolina, across South
22 Carolina where you have existing facilities? In general, you don't need to give specific instances, but
23 what is your record, how does it compare to other people. Piedmont Natural Gas?

24 Andrew Moore: I would say PSNC's safety record is as good as or better than any other pipeline
25 operator.

26 Jeff Schmitt: Have you ever been cited by the Public Service Commission of North Carolina for any
27 violations for safety?

28 Andrew Moore: Safety violations, no.

29 Jeff Schmitt: None.

30 Andrew Moore: None that I am aware of.

31 Jeff Schmitt: The pipe is being built to provide for future demand, I would presume. How do you go
32 about forecasting the demand in a market like this for additional gas? What is the basis?

33 Matt Rhoads: Just to clarify I think he said it was existing demand because that existing 10 inch is at
34 capacity but that it is going to be a 16 inch to cover the existing demand that needs more gas right now
35 but also projected in the future is why it is need now for existing demand but I think they are designing it
36 to also encompass future demand.

37 Jeff Schmitt: Existing demand means there is an inventory of either new or will built commercial or
38 residential facilities where natural gas is going to be used to service the area, is that right.

1 Matt Rhoads: They currently have agreements to provide natural gas that already exceed the supply so
2 there is an immediate demand and need for this gas right now but I think what they are saying it is
3 designed to satisfy that immediate need but also provide for future growth so we are not back here in
4 front of you guys in 10 or 15 years.

5 Jeff Schmitt: So if you didn't put this in and the existing volume was not able to handle the existing
6 demand, what happens to the new construction, both commercial and residential, what is utilized to
7 provide their heating/cooling, would it be electric. What happens?

8 Andrew Moore: It would have to be some other alternate source.

9 Jeff Schmitt: What is an alternate source?

10 Andrew Moore: Electric, propane.

11 Matt Rhoads: PSNC would be in a lot of trouble with the Utilities Commission at that point because they
12 are obligated by statute and regulation to provide an adequate supply of gas for the customers in their
13 service territory so if they were to end up in a situation where they could not meet the demand for the
14 gas, that would be a major issue. They are obligated by statute to have an adequate supply.

15 Jeff Schmitt: In other words, looking at it in another way, the State statute and the Regulatory
16 Commission is dictating that you have to have this available for future use. You have no choice in this
17 matter?

18 Matt Rhoads: They have to ensure an adequate supply. If PSNC were to only meet the current demand
19 and let's say a, and I'm making this up, I don't know if Let's say a 10 inch line today would fit that
20 immediate demand, then I think they would be in compliance but they would have to come back in to
21 meet future demand in 10 years and put another line and at some point the Utilities Commission is going
22 to look at that when they looking at rate structure and things like that. Future planning is obviously,
23 installing one 16 inch is cheaper than installing two 10 inch at different times.

24 Jeff Schmitt: Trying to get a perspective so the audience and the Board has an understanding of why
25 this is being done in a broader context. Mr. Rhoads, you objected to the Board even hearing this case
26 tonight and I understand that. Has any other county in this state ask you to have a, or demanded of you,
27 for a special use permit to be issued?

28 Matt Rhoads: Are you guys aware of any?

29 Andrew Moore: We have been required to have special use permit for above ground facilities where we
30 have a regulator station or a valve station, something like that. There are no other counties that require
31 us to have a special use permit for an underground pipeline.

32 Jeff Schmitt: It might be said that this County is going above and beyond what any place else in to
33 ensure that if a pipeline is put in that the safety issues, requirements of it and everything is done in the
34 most safe manner as possibly can be seen.

35 Matt Rhoads: My objection to that was under the rule of preemption that that the State and Federal
36 governments and the regulatory bodies have so completed the regulated the safety issue that is not in
37 the purview of the County to apply any stricter safety requirements that those state and federal structures
38 do and that is just a legal principle called preemption that if the feds and the state are telling us how to do
39 it ... and really if you read the statutes for the Utilities Commission, one of the reasons to having the
40 Utilities Commission is to make sure that things are uniformly done across the state and to me that again
41 is a preemption because if every county had its own requirements for different safety standards and
42 depths and where you could and couldn't go, it would be impossible for a utility to really operate across
43 the state.

- 1 Jeff Schmitt: Is this pipeline as it is constructed, will it go down existing roads or is it going to cut across
2 fields and pastures?
- 3 Rob Priester: We are within the private easements and it is a cross country route. We can cross many
4 roads.
- 5 Jeff Schmitt: So when you dig through somebody's farm that has cattle on it, you will have to do
6 something to keep the cattle in abeyance during the time period when this is done. What would that be,
7 2 weeks, 1 week? You start digging and putting this pipe in, what is the time horizon from when you
8 begin putting this in to when you cover it up and put grass seed on it?
- 9 Rob Priester: Construction for a project like this is...
- 10 Jeff Schmitt: Not from beginning to end. Let's say one quarter of a mile or something like that. I guess
11 you do this in a linear basis.
- 12 Rob Priester: The construction for a project like this is typically an assembly line fashion where you have
13 crews out front that do your clearing and grading and you lay your pipe out along the route, then you
14 weld it and dig your hole, so it is not one crew moves through and you are done on that particular
15 property. Right now, in talking to our contractors, we are proposing a couple of month's window or they
16 are proposing a couple of month's window to complete this project.
- 17 Jeff Schmitt: The entire project.
- 18 Rob Priester: The entire 16 miles. Depending on what they run into and what they have to work around
19 with the effective land owners, it may impact some more than others.
- 20 Larry Wright: May I ask a question, then Mr. Schmitt can continue. So you put a 10 inch pipe, then you
21 put a 16 inch pipe so how much easement do you need to expand? Any? Is it all within the same
22 easement?
- 23 Rob Priester: It is within the same easement.
- 24 Larry Wright: So you are not increasing the easement?
- 25 Rob Priester: Right.
- 26 Larry Wright: Can I ask another question? So you have the pipe at various levels, some are four feet,
27 some are 30 inches, whatever and I am a property owner and I want to put a fence so what do I do, I
28 don't know how deep it is.
- 29 Rob Priester: We work with landowners all the time with fencing and other issues ...
- 30 Larry Wright: Who do I call, do you have a fencing....I mean I would not know who to call.
- 31 Rob Priester: You would call NC811 for a utility locate and they would notify us of your intention and we
32 would contact you regarding...
- 33 Matt Rhoads: That is state law, you are required to do that before you do any digging.
- 34 Larry Wright: So it is just like the power.
- 35 Matt Rhoads: Exactly. When you call 811, they call the power company, the gas company, etc.
- 36 Larry Wright: How responsive are you?

- 1 Rob Priester: We have 48 hours to respond.
- 2 Larry Wright: Any other questions from the Board?
- 3 Mark Micol: Did you look at alternative routes that did not require an SUP?
- 4 Rob Priester: The route for this project, since it is within an existing easement, it is really, I don't want to
5 say the no brainer but it is within an existing easement, picked immediately parallel to an existing, the
6 existing is almost a straight line from where our source is to where the supply is needed.
- 7 Mark Micol: Mr. Harvey mentioned that some of the earlier projects were in the DOT easements that
8 would not work with this project?
- 9 Michael Harvey: Mr. Micol, we clarified DOT right of ways
- 10 Mark Micol: Okay. I am just saying what is different about this project than all the other projects.
- 11 Matt Rhoads: The distribution lines, much smaller lines, and DOT can live with those, I think, but this is a
12 larger line that requires a lot more width and protection honestly.
- 13 Jeff Schmitt: Are you going to have anyone else speak tonight?
- 14 Matt Rhoads: Mr. Priester is the only one that I planned to do a direct examination of but with Mr. Moore
15 here, if you have questions for him as well, that is fine.
- 16 Jeff Schmitt: On page 141 of the docket that was given. It says that property owners have expressed
17 concerns that PSNC will not re-stabilize their property once they installed the pipeline. I presume that
18 means that once you put the pipeline in, put the dirt back, if there is any sinking, leveling, whatever goes
19 down, settlement, you will not return to fill that in. Is that a correct statement?
- 20 Rob Priester: No. We typically return the property to as good or better condition that what we leave it in.
- 21 Matt Rhoads: The grading and reseeding would be covered by your environmental....
- 22 Jeff Schmitt: The continuation of the statement says they have also expressed concerns that PSNC
23 officials had indicated they will not repair, replace portions of driveways, roads, etc. disturbed as part of
24 the project.
- 25 Andrew Moore: I'll be glad to comment. Anything that we damage during construction, we will repair or
26 replace.
- 27 Jeff Schmitt: So this statement is incorrect?
- 28 Andrew Moore: Yes.
- 29 Michael Harvey: Page 141 of the abstract obviously provides the Board with what we have heard. We
30 have a staff comment basically saying there are notes in the site plan that we believe address these
31 concerns so we are obligated to inform the Board of what we are hearing but we also in the abstract what
32 we believe the answer is.
- 33 David Blankfard: Why could you not use part of Cardinal's 24 inch to collocate or use some of their gas if
34 they have it to meet demand? Could you use some of their gas that they are providing?
- 35 Andrew Moore: We do use some of their gas. We do get gas from Cardinal but we are not their sole
36 user. They also supply Piedmont Natural Gas which serves the entire eastern half of North Carolina so
37 we have a certain allotment we are allowed to take off the Cardinal Pipeline but it is capped.

1 David Blankfard: So in other words, you have been using their gas?

2 Andrew Moore: Yes.

3 Larry Wright: Any other questions?

4 David Blankfard: This easement was granted in 1950, what if some of the homeowners, in error, have
5 built something over the easement? And you are planning to put this new pipeline, what happens then?

6 Rob Priester: We try to work with landowners the best we can through our land agents or ... as we try to
7 go out there, we have land agents, I am sure that most if not all of you have not met one or more of our
8 land agents. We will work with folks if we know about what is in the area to get things moved or
9 whatever we need to do. It will be on an individual basis that we can work with the landowners on.
10 Some things we don't know about, we try to find out as much as we can and do the best we can.

11 Mark Micol: Are you currently aware of any encroachments?

12 Rob Priester: Yes, we do have some things. Fencing is a common issue; we have some sheds in a
13 couple of places. We do have some. It varies depending on the landowner and where we are at but as
14 far as what the encroachment and some of them are permitting and some of them are not that we know
15 about. As part of that 811 process depending on the crossing some things require permits from us and
16 some things don't.

17 Larry Wright: Any other questions from the Board?

18 Matt Rhoads: I would like to reserve rebuttal after we hear from the opposed and to give a summary.

19 Larry Wright: Do you have a summary statement or do you want to wait.

20 Matt Rhoads: I would like to wait please.

21 Larry Wright: I would like to open it up to the public and I would like to remind you that this Board has
22 very limited powers and I would like to open it up to sworn testimony that is supported by competent
23 material that we can use to support that it either applies or does not apply to existing county ordinances
24 and the 2030 Comprehensive Plan. This evidence must be submitted in record in proved by expert
25 testimony. Based on that, we have to deal with relevance and if you can form a collation of people that
26 have common interest or a common issue and elect a speaker that would be great. Do we have the list?

27 Michael Harvey: Yes sir, the first individual signed up to speak is Mr. Joseph Zaragoza.

28 Joseph Zaragoza: Before I begin I would like to hand out...

29 Tina Love: Could you state your name for the record.

30 Joseph Zaragoza: My name is Joseph Zaragoza and I live in 1870 Home Road, Hillsborough, North
31 Carolina. I have been sworn. I am going to hand out revised conditions and several sets of documents.

32 Matt Rhoads: Could I have a copy of that?

33 Larry Wright: He is entitled to a copy.

34 Joseph Zaragoza: Let me start by trying to express who I am. I have a Master's degree in Urban and
35 Regional Planning from the University of Mass. in 1974. I have a graduate degree from UNC in 1981. I
36 have lived in this county since 1981. Excuse me, graduated in 1983. I have been a real estate broker
37 since 1983 and I have worked in both public and private as a land consultant. I was a subdivision
38 administrator in Wake County for seven years. I consider myself an expert on land development and

1 subdivisions. I am also a farmer. I have owned a farm since 1989 and part of this land that I purchased
2 which we will talk about is also farm. I am going to talk about access issues, buffering issues, impervious
3 surface limitation issues and I am going to conclude with pipeline safety. I am not a pipeline safety
4 expert but I do have a piece of pipeline that sat in the North Carolina City Soils for some 58 years until I
5 uncovered it and you might find it interesting and we will talk about that in a little bit. Let me start first by
6 telling you what I own and where it is located. First, off Mebane Oaks Road, here, the next road is here,
7 the next road is here. I own the area in black. This is my access road from Mebane Oaks Road. It is
8 names Radner Farm Road and it leads out here. It is an 80 acre parcel. My neighbor is here tonight. I
9 also own 105 acre parcel, here and I am going to go from east to west and cover several points during
10 my presentation. Let me again by saying, I had a number of excellent conversations with Andrew Moore
11 and Rob Priester and if it weren't for being sued by SCANA, I would still be talking today but Mr. Rhoads
12 wishes to move the process ahead and the only way he figures how to do that is sue people.

13 Matt Rhoads: I am going to object to that because it is completely irrelevant in the criteria of the Board.

14 Larry Wright: Objection heard is accepted.

15 Joseph Zaragoza: Before I purchased this property, I did considerable due diligence. We have heard
16 some about the old pipelines and what is coming. This is as complicated as you are going to get but this
17 is actually what it looks like under the ground. In 1952, we have heard about the 10 inch pipeline that
18 was installed, well, it is the one existing. In this area, it crosses under Nicks Road and comes to a valve
19 station which is about 45 feet by 50 feet. That is 1952. That line continues on and over here it starts
20 here and runs clear across here, much of it on my property. In 1999, Cardinal, which I believe is owned
21 partially by PSNC installed their pipeline, the 20 inch line and it runs parallel. It goes under and over in a
22 few places, at least at one place on my property, they go like that. There is a lot of flexibility with these
23 pipes and the way they lay them out. Okay, 1999, the question was asked whether a special use permit
24 was needed for this fenced area, this value station, one of the documents I am giving you, shows the
25 easement that my predecessor of ownership the Nicholson's entered into with Cardinal. There was one
26 and it was revised six months later, in January 1999, the only revision in January 1999 was to require a
27 50 foot radius vegetated screen buffer and today if you go out there, you will see two rows of trees right
28 in this vacuity, there is another few trees here, there is none over here because it was wouldn't have
29 been practical given this area is where the existing 10 inch line is. So in 2008, one year before I bought
30 the property, PSNC decided they needed an additional easement area which led me to think well, if they
31 are ever do anything, they are going to use this or widened 2008 what they have purchased this piece so
32 2010-2011 rolled around and I started to build my access road and in 2011 I built a culvert with DOT
33 driveway permit. Then 2014, I first met Rob Priester on my property in March of this year. I took him all
34 around; virtually everything I am saying tonight is what I told him in March. I said, really, you need to
35 stick to this easement but if you don't, you got to accommodate my road here and don't make it
36 impossible for me to develop my land. How could they make it impossible for me to develop my land?
37 This is that culvert I am showing here. They could put their pipeline right here at this gray. Let's say
38 three or four feet rather than down here. This is where the 16 inch line could go, it could go anywhere
39 along here. This is where the 10 inch line could go. Could go almost anywhere. This is an eight foot
40 difference between the existing grade at Nicks Road, eight feet, why, because I have three foot ditches
41 here and then five feet of minimum covered. If I were to build a road, they would tell me I need five feet
42 of cover. No 36 inches. In fact, when I did build this farm road, they required, PSNC required me to add
43 two additional feet of fill right here in order to cross it. They have yet ever to respond to my request for
44 them to put this line down deep. I don't know what it is, they can show it on plat, they can show it on
45 drawing but if you don't put it in writing, it doesn't exist. So eventually, I will be a DOT standard road
46 here. Right now it is a farm path. It takes me from Nicks Road to my farm fields. Let's go on, you
47 noticed I haven't said anything like I am opposed to this pipeline. I never said that. Alright, so the
48 pipeline, PSNC has a 35 foot wide easement on my property. Part of what I did. In addition to that 30
49 foot easement, it says in simple language, you don't have the right to use any of my land except for the
50 easement. Something they don't understand. They don't understand English. This part of Radner Farm
51 road is in contention. What I mean by that, Radner Farm road is existing on a 50 foot easement.
52 Cardinal has a 50 foot easement; PNC has a 30 foot easement. Yes, they want to put their 16 inch line
53 in the 30 foot easement right at the edge. But what else do they want. They want 20 additional feet of

1 this road right of way as their right of way. Then they say, we can always work it out, really no big
2 problems. Ask DOT that. As part of my recent due diligence, I have talked to Chuck Edward, District
3 Engineer, District Engineer in Graham. He frankly says; make sure it is in writing. Be very careful with
4 the gas company. So, let's talk about my situation. Similar situation, where the land more contours and
5 this is Radner Farm Road, this is my neighbor's pasture.

6 Larry Wright: Sir, could you stand on the other side, you are talking to the Board.

7 Joseph Zaragoza: This is the property line between myself and my neighbor with the horse pasture.
8 This is my 50 foot wide Radner Farm Road easement. This is the 30 foot PSNC easement and the 50
9 foot Cardinal pipeline easement. These are the approximate locations in black of the 24 and 16 inch
10 lines. PSNC says they want their 16 inch line here but they want to have plenty of additional feet of right
11 of way. Now, they can put something in writing saying, well it really doesn't matter, in a nutshell. Well, it
12 really does matter. What of the conditions I am asking for you to say that if it doesn't matter I want you to
13 say to me as the Board of Adjustment that this 50 foot easement will remain a 50 foot road easement
14 even though PSNC has decided they want part of the action. I think I talked a little about this situation,
15 bury the pipelines to eight feet. Over here, this is the proposed PSNC valve station, 100 feet by 100 feet.
16 On some documents, I have received, the screening is to be contained on my land but not within the 100
17 by 100. Other documents they supply me, yes, we will put the screening as much possible within the
18 valve station. I really don't know what to think. And there is this other issue of so-called pervious gravel.
19 Pervious gravel is a concoction of the State Legislature when they ruled gravel of a certain size is no
20 longer to be considered impervious. Well, the legislature has a way of changing its mind. In fact, there is
21 another piece of legislature that passed the house, that wants to study the whole question of any gravel
22 of any size is to be considered pervious, or impervious or partially pervious. The problem comes when;
23 let's say the legislature says, this pervious gravel is now impervious. Well, what would be the effect on
24 my property? Given the County's regulations on impervious surface limitations, if this were 100 percent
25 covered in gravel, it would eliminate 1.91 acres of my land, other than what is in here from any future
26 development, any disturbance at all. Here again, I would like this Board to say tonight or whenever, if
27 this gravel is installed, when it is considered to be pervious gravel, that all your pervious gravel in your
28 minds, forever. Therefore, not having to trigger any additional set aside or this becoming impervious. It
29 took me weeks to think that one up. Also, the County has these rules that if a lot are a certain age, that
30 at some point, I cannot at this point deed this to PSNC because it would affect my development ability for
31 the rest of my 105 acres. Mr. Harvey might explain that to you better than I can but at some point I want
32 to be able to deed this to PSNC after I subdivide my land. I don't want to own this thing and pay taxes on
33 it and worry about it. They can worry about the pervious and impervious surfaces then. I am trying to go
34 through this as quickly as possible. Now, we talked about pipeline depth, both at Radner Farm Road and
35 at Nicks Road. I think what I gave you said about six feet of depth would be around here as opposed to
36 the eight of depth over there. It is because the lay of the land and no longer a necessity of any kind of
37 ditches on this side. The ditches would play nearly the problem as they would a mix. This is a farm and
38 its excellent soils. Yes indeed I had it perked. I had soil scientist come out in 2009, incredibly good soils
39 for residential development as well as farming. I had ask that one of the conditions be that when they do
40 dig this ditch, they do it two separate stages. That would be to take the top soil, set it aside, don't mix it
41 in with the other material, take the other material, sift or whatever you do with it, put it over there and not
42 destroy the topsoil. Fill it back it and put the topsoil back on. Saves a lot for any requirement of
43 additional fertilizer, etc. One of the things I have presented to you, it is in black and white, this is an
44 original. You can see it is original because it bled through. It is hard to see but this is Nicks Road, this is
45 my farm path, this is a tiny creek, this is my future subdivision lot. I think this and the culvert shows that
46 I was planning this thing well before PSNC came up with the idea. Let me show you one other thing that
47 is of interest to me. You see this pond, there is this pond here that was built after the pipeline went in.
48 This is the reason why the pipeline needs to be come this way, this avoids the pond. The pipeline went
49 in, the pond was built on top of it, PSNC never took the steps to eliminate that pond and if PSNC doesn't
50 lower the pipe to where I can build a DOT standard road, it is because they were

51 Larry Wright: No dialogue please.

- 1 Joseph Zaragoza: If PSNC doesn't do this, they want to avoid going through this pond a second time
2 and they want to avoid filling it in but there is no reason to make my life miserable by taking the easy way
3 by avoiding that pond. Just want to check my notes. There were several questions and answers. I think
4 there was a question about access. PSNC wants to utilize my road. Now the easement document in
5 1952 says flat out, you don't have the right to use anything but your easement to get to your easement.
6 But they want to use the power of eminent domain to basically say, we don't care what your '52
7 easement says, we are coming down here. And given the documents I received, I decided they don't
8 want to pay me a nickel for it. In fact, the first, I know I shouldn't talk about numbers but I think it is
9 important.
- 10 Matt Rhoads: I am going to object.
- 11 Larry Wright: I'll give you chance, is that okay.
- 12 Joseph Zaragoza: The first amount of money they offered me was more than the second amount of
13 money they offered me. They want more and they want to pay less. You want to sue me, go right
14 ahead.
- 15 Larry Wright: You are talking to the Board please.
- 16 Joseph Zaragoza: He may want to keep quiet too.
- 17 Larry Wright: You are talking to the Board.
- 18 Joseph Zaragoza: I believe there was a special use permit requiring this vegetation. This easement, in
19 orange, is the new PSNC easement. I like these trees, they provide me the only measure of screen
20 around this valve station. They need to take these easement and move it ever so slightly but the plans
21 you saw show these trees being eliminated. They need to move it over here and it wouldn't affect
22 anything as long as they put that pipeline deep into the ground. Mr. Rhoads, no I'm sorry, Mr. Priester
23 said they were working on the easement issue. That is what I was trying to address. By working out,
24 they mean suing me. I do have an attorney representing me on those matters so we will find out what
25 happens. There is one other matter that involves when I was building this road, PSNC never took the
26 steps to eliminate that pond and if PSNC doesn't lower the pipe to where I can build a DOT standard
27 road it's because they were too, well.... If PSNC doesn't do this, you know, they want to avoid this going
28 through this pond a second time. They want to avoid filling it in but there's no reason to make my life
29 miserable by making themselves, taking the easy way by avoiding that pond. I just want to check my
30 notes. There are several questions and answers. I think there was a question about access. PSNC
31 wants to utilize my road now the easement document in 1952 says flat out you don't have right to use
32 anything but your easement to get to your easement. But they want to use the power of eminent domain
33 to basically say we don't care what your '52 easement says, we are coming down here. And from the
34 documents I received they've decided they don't want to pay me a nickel for it. In fact, the first, I know I
35 shouldn't talk about numbers but I think it's important. As I said I believe there was a special use permit
36 requiring this vegetation. Mr. Rhoads said that, no I'm sorry, Mr. Priester said that they were working out
37 the easement issue. Well, that's what I was trying to address but working it out they mean screwing. I
38 do have an attorney representing me on those matters, so we'll find out what happens. There is one
39 other matter, it involves when I was building this road, this farm path, I uncovered part of the old 10 inch
40 pipeline. I don't submit it to the record and I'll tell you why. I like this pipe and I don't know if you want to
41 keep it but it is here so who wants to lift it up and show what a 1952 10 inch steel pipeline, that's been
42 sitting in the acidic soils in North Carolina, looks like, here's your chance. You'll notice the steel is
43 corroded. The protective coating is worn. Now I'm not saying that every pipeline on this length every
44 section looks anything like it but it will give you one indication that there's any well slicing of that black
45 protective covering this stuff you can see what happens. It might take 60 years for that to happen but
46 this thing is indicative of what could happen if you put 800 lbs. in there and its and I'm not a pipeline
47 expert but I thought it was interesting. And I didn't dig it out of the PSNC easement area. It was sort of
48 off to the side. I think that concludes my formal presentation.

1
2 Larry Wright: Yes go ahead.

3
4 Jeff Schmitt: Mr. Harvey, does the UDO talk about easements and what this Board can or cannot do in
5 regards to granting easements or questioning easements?
6

7 Michael Harvey: Well, this Board, and I'm going to defer some of this to the county attorney, the issue of
8 easements is not for this Board to necessarily address. We obviously have language in the Unified
9 Development Ordinance dealing with easements as they relate to subdivision development, the creation
10 of roads, the creation of necessary right-of-way but as far as the establishment of easements for this type
11 of project, the ordinance does not require or establish any standards that is a private negotiation
12 between the property owner and the in this case utility.
13

14 Mark Micol: Can I ask a general question, he talks about impervious surface, any easement in Orange
15 County or let me ask you this, what leeway do the utilities have as far as the coverage of easements?
16 Can they put gravel, can they put concrete, pavement if they wanted to could they do that?
17

18 Michael Harvey: I don't know if I'm qualified to answer that question, what I will say is that an easement
19 typically spells out use, it typically spells out what can and cannot happen in the easement and it typically
20 would establish rights with respect to development coverage or whatnot. The question that arises that
21 since it is an easement that is still on someone's property, anything happening in that easement
22 specifically the placement of impervious surface area, does impact the overall developmental ability of
23 property consistent with the Unified Development Ordinance in the various limitations establishes therein.
24 As this Board knows, Article 4, our watershed management program, establishes for certain protected
25 and critical watershed overlay districts, impervious surface limits throughout the County. Some of which
26 are 6% some of which can be as high 36%. It depends on where you are located. Mr. Zaragoza
27 property I will testify to because I have firsthand knowledge is in the Cane Creek Protected Overlay
28 district and has a fairly restrictive impervious limit. That's what I feel comfortable responding to in
29 answering that question.
30

31 Larry Wright: Any other questions from the Board?
32

33 Jeff Schmitt: Can we get counsel to comment relative to the easements and our purview about thinking
34 about them impacting on them?
35

36 James Bryan: Yeah, I should have just let the Board go on, I wish I could speak for months about this
37 based on a lot of implications and a lot of similarities but the short and sweet of it is that when you have
38 any sort of, what you are really asking about is relevancy and this is not relevant to any of the standards.
39 There are different sections of the UDO where easements are used as tools it's not relevant to what the
40 Board is deciding tonight. It's something for the general courts of justice to deal with whether they're
41 granted an easement or not and what compensation they are given for that. What you're looking for is
42 the particular standards called out in the UDO that Mr. Harvey has provided with the Finding of Facts and
43 anything whether those conditions are met and what could meet those conditions. The terms of specific
44 easements are beyond the powers of this Board. That is succinct an answer I can give.
45

46 Jeff Schmitt: Thank you.
47

48 Larry Wright: Any other questions from the members of the Board? You stay there because you're
49 going to get a rebut, you'll have an opportunity for a rebuttal.
50

51 Matthew Rhoads: I don't actually have any questions for Mr. Zaragoza but I'll respond to his comment to
52 my summary if that's ok? Instead of going after each person it might be more efficient to do it that way.
53

54 Larry Wright: Well then each person can have the opportunity for their rebuttal after yours so I'm trying
55 to let you go right now.

1
2 Matthew Rhoads: Ok. My comments are on the conditions that he handed out. Those are all things
3 again that are preempted by state and federal regulation and that's not something this Board can dictate,
4 depth of pipeline or location or things like that. As to any safety issues, A. we have no clue anything
5 about that pipeline that piece of pipe that Mr. Zaragoza expressly said I'm not a pipeline safety expert.
6 That necessarily means any of his testimony on pipeline safety issues is not competent in a legal sense
7 and cannot be the basis of anything that has to be expert testimony for that sort of testimony. His
8 unhappiness with accommodating the road, acquiring new easement areas, what the existing easement
9 says and allows, those are all separate legal issues that are determined outside of this forum. That
10 doesn't go to any of the criteria for the Special Use Permit and we are a pending condemnation action
11 against Mr. Zaragoza but also at the same time in the middle of negotiations. There is an outstanding
12 offer with new drawings for him so we are trying to work with him on these issues but at the same time,
13 for construction timing issues, we have to go ahead and condemn at the same time because we can't
14 take six months negotiating with him and then have it not work out and then start a condemnation. It just
15 puts us too far behind our timeline.

16
17 Larry Wright: But that's not within our power either.

18
19 Matthew Rhoads: Correct, and the issues that he's raising, whether it effects the impervious surface,
20 whether it messes up his DOT road, those are all things that would go to valuation in a condemnation
21 action and go to valuation when we are negotiating for the easement with him. If we are taking away
22 some of his impervious surface ability that take to value again.

23
24 Larry Wright: And that's not relevant to us either.

25
26 Matthew Rhoads: Correct, however it seems to me that everything that Mr. Zaragoza spoke to other
27 than pipeline safety is really irrelevant to any of the criteria. Any of his comments as to pipeline safety
28 were not competent legally because he is not an expert in that field.

29
30 Joseph Zaragoza: Neither are you sir. The question I have for you is, are you willing to put these pipes
31 8 feet below the current.

32
33 Larry Wright: You should be talking to the Board. You talk to the Board.

34
35 Joseph Zaragoza: Well why don't you ask him if they're willing to put it 8 feet down.

36
37 Larry Wright: I think that's outside of our venue, I'm sorry.

38
39 Karen Barrows: This is a private company, not a public utility, do they have the right to condemn?

40
41 James Bryan: Yes, I'm not an expert on it but they are a public utility that has a right of public
42 condemnation under general statutes. I am used to city and county and I know how we've got quick
43 takes I don't know exactly the term of theirs. I know they have the authority.

44
45 Karen Barrows: Ok

46
47 Joseph Zaragoza: One point, if they're not willing to do this, what it tells me is they do not want me to
48 develop my land. That is the land, I can easily put 29 lots here and I need a DOT road to make that
49 happen but if they don't want 29 neighbors next to the their pipeline they need to say so and compensate
50 me for it. That's what it's all going to apparently, that's where we're heading unfortunately.

51
52 Larry Wright: Ok, thank you.

53
54 David Blankfard: Can we have a recess?

1 Larry Wright: We will have a 5 minute recess. That means we reconvene at 9:31 PM

2
3 Larry Wright: Ok, during the recess the members of the Board have expressed their desire to cap this
4 meeting, this session at 11 PM that means that after 11 PM we will cap this session if indeed we are not
5 through by 11 that means we will reconvene at another time to continue this session. I'd also like to say
6 that Mr. Rhoads you can cross examine each of the speakers giving testimony but could you save your
7 arguments to the end.

8
9 Matthew Rhoads: Absolutely, and I would just request, it is very important to the company that this
10 process get done as quickly as possible.

11
12 Larry Wright: We will do everything we can to streamline this and I would like to state that after hearing
13 this first witness, most of what was said is not relevant. We cannot, we really have no power, and while
14 we may sympathize with them, this Board does not have the power to act on what most of what was
15 said. OK.

16
17 Matthew Rhoads: Again in the interest of trying to get this done tonight, I am going to probably be pretty
18 liberal with my objections if things are irrelevant or not competent. I would just ask that, I don't want to
19 look.....

20
21 Larry Wright: Fine, that is and in our attorney is here to help us they feel you are going too far.

22
23 Michael Harvey: The next person who signed up to speak is Susie Thompson..... Ok Jerry Raines.

24
25 Jerry Raines: These gentlemen addressed most of the things that I had on my mind.

26
27 Larry Wright: Please say your name and if you've been sworn in.

28
29 Jerry Raines: I'm sorry, I'm Jerry Raines and I have been sworn. I live on 4914 Nicks Road. I live just
30 east of Mr. Zaragoza property. The pond he was addressing is my father's, his property and my property
31 joint. The issues we've had with the pond with PSNC pretty much have been resolved as long as they
32 do what they say they were going to do. There have been a lot of issues about that. One of the
33 statements in this lease that I have had so much trouble with and since it is a matter of record, I don't
34 think it should affect anything. I believe this learned gentleman behind me, Mr. Rhoad is the one that
35 printed this thing up and if you don't mind, I'll read it.

36
37 Larry Wright: Is this within the purview.

38
39 Jerry Raines: This is the easement. This is the easement I was given to sign. Is that not?

40
41 Larry Wright: I understand, the easements are not within our jurisdiction.

42
43 Jerry Raines: Sir, I'm not going to read the entire easement, I want to read the last paragraph. It has
44 nothing to do with boundaries.

45
46 Larry Wright: Ok, just a second. Is this relevant to us, an easement?

47
48 James Bryan: Most likely not. What the Board would have to ask and determine is to what standard
49 does this evidence apply. Even if it's true what is being read or what is being alleged would that mean a
50 standard was either met or not met.

51
52 Larry Wright: By a standard he means within an ordinance in our UDO or a part of the 2030
53 Comprehensive Plan and if you are willing to address that with a section like 5.3.2 then it is relevant to
54 us. If not, there is nothing we can do.

1 Jerry Raines: It addresses the validity of whoever is holding this thing that handed it to me. It's four
2 lines. It's the biggest problem I've had with this entire easement. It says it is understood and
3 acknowledged by the undersigned that the persons securing this grant on behalf of the grantee, which is
4 the gentleman handed me this thing, and they are securing this grant on behalf of the pipeline, is without
5 authority to make any agreement with regard to the subject matter hereof which is not expressed herein
6 and that no such agreement will be binding on the grantee. In other words everything that man tells me,
7 he can promise me the moon and the only thing I can do is look at it.

8
9 Larry Wright: How does that apply to this Board?

10
11 James Bryan: Well, that is for the Board to determine, whether it applies or not. What I can suggest in
12 layman's terms is that the petitioner has proposed a line a drawn line a pathway and its assuming that
13 they have the rights to do in that pathway. How they were going to get that right is through easements
14 either through condemnation or through purchasing of those easements but that is an assumption that
15 the Board should go on. I haven't seen anything that the Board can rely on any standard that would be
16 met or unmet by talking about the particular either lawsuits or negotiations or anything like that. If the
17 Board would like to hear more from either the petitioner or the speakers about particular standards that
18 they believe would be met or not met how this is relevant to each one and then make that decision based
19 on that and ask to go forward to more relevant material.

20
21 Larry Wright: Members of the Board? What standards do you think this addresses?

22
23 Jerry Raines: Well, what it's telling me is, see I walked in on these gentlemen down there talking to my
24 mom and dad. My mother is 84 and my dad is 85. They were handing them this piece of paper for them
25 to sign and I took it and read it. Then when I got to the bottom line it said that this man could not, in my
26 opinion, this says he can't be trusted. What he says he does not have to stand by, the company does
27 not have to stand by. He can sit there and promise to me the moon but unless it is already written in this
28 piece of paper he can sit there and negotiate all day long and twist somebody's arm or prod them or lead
29 them or whatever you want to call it to get them to sign this thing.

30
31 Larry Wright: I understand what you are saying. I have to figure out how this applies to the Board of
32 Adjustment. Now I have to go to our attorney. I do not see a standard within the UDO for anything. I
33 sympathize with this man this sounds to me like something that is in a court of law. It does not sound like
34 it is a venue for the Board of Adjustment.

35
36 James Bryan: If you fail to see relevancy to a particular standard and without objection from the rest of
37 the Board then I would encourage you if you fail to see relevancy and or you can take it at its full face
38 value and it doesn't affect a standard so if you were to believe him, every word he says they are rascals
39 and say ok I believe you but even if they were the worst of the worst, it still doesn't affect these 20 pages
40 of standards that Mr. Harvey has presented then I would encourage you to seek further testimony.

41
42 Larry Wright: Do you have anything else to present?

43
44 Jerry Raines: Oh yes sir. I have. The County addresses the same thing, I thought this was going to be,
45 I thought I was going to be addressing people who understand. I was told when I come here that the
46 people down here would have good common sense. I was hoping that would be the case. That is yet to
47 be determined in my view. As we have problems as far as these people coming through how's it going to
48 affect our taxes? It's going to devalue our land it is going to affect our taxes?

49
50 Larry Wright: We have to hear an expert witness that says that. We cannot.

51
52 Mark Micol: Have you hired an appraiser?

53
54 Jerry Raines: I talked to the county appraiser the other day. He says my dad's property would be
55 devalued 25 percent. He's at 209,000 thousand.

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Mark Micol: We have to have him here.

Larry Wright: We have to have him testify.

Jerry Raines: No, I do not have him here. This is like everybody else, everybody else can go home too.

Matthew Rhoads: That's based on a new easement for which he'll be compensated.

Jerry Raines: Are you telling me that right now?

Larry Wright: Sir, we do not have dialogue. You're speaking to the Board.

Jerry Raines: Ok, will you ask him if he means that right now? He said it sir. He talked to me. I did not talk to him.

Matthew Rhoads: If we're acquiring a new easement then either by negotiation or through eminent domain compensation would be paid for the easement.

Larry Wright: Thank you and that's on the record sir.

Jerry Raines: Ok now, on chapter 48:11, right of entry prior to condemnation, it says on the fourth lines, the condemner shall give 30 days' notice in writing to the owner at his last known address and the party in possession of the land of the intended entry authorized by this section. These folks came on my land in May. I got a letter two weeks ago. They been surveying on my property without previous notice. How do I know some dude isn't sitting out there entering my property? I don't know who they are. They could be casing my place to rob it.

Larry Wright: Mr. Rhoads?

Matthew Rhoads: With all due respect to Mr. Raines, I need to object to all of this. None of this testimony goes to any of the criteria that this Board considers. I think that his concerns are legitimate concerns and he and I have spoken. I think that this is not the forum to raise those concerns and given that that Board has decided that they would like to end this by 11 o'clock my client's right to a fair hearing and due process would mean that we don't listen to irrelevant testimony and take the time.

Larry Wright: Sustained. Do you have something else to present to the Board?

Jerry Raines: I see the rest of this is going south. Ok, I got two things I'm worried about. There's two things in here, everybody, is this like a court of law what this is supposed to be?

Larry Wright: This is quasi-judicial; it's not a court of law.

Jerry Raines: So it is not presented as a court of law, that's what my understanding was.

Larry Wright: We're here to see if it complies with County Ordinance.

Jerry Raines: And if have not broken the law, everything is fine. What if they've broken the law?

Larry Wright: That goes into a court of law.

Jerry Raines: Ok sir, I'm finished. I'll deal with this on another level if I have to.

Larry Wright: Ok, thank you. Mr. Harvey?

1 Michael Harvey: Mr. Chairman the next individual signed up is David Laudicina, AS he is not here the
2 next individual is Timothy Ives.

3
4 Timothy Ives: Good evening my name is Timothy Ives and I have been duly sworn. I and my wife
5 Courtney Ebbinghouse live at 5502 Bradshaw Quarry Road. We are clearly off that map but if you know
6 anything about that area I am not a lawyer nor am I an engineer but I am a neighbor and take your
7 patience so I will probably misspeak, please try to clarify or ask for clarification if I do and I probably will
8 very quickly. I've actually got more questions for you than I do have answers and I've got some
9 materials and yes I'll try to make it as objective a presentation as possible. One of the things that we've
10 been looking at is the 1952 agreement and the term right-of-way and easement. They're really are no
11 dimensions to the 1952 agreement so we really don't know where any of the areas are. Now the Orange
12 County, whether it's the planning commission or department or whatever this might be may have this
13 down. We have received, and this is the hard material that we received from one the EMS agents, Jack
14 Cox is his name, it was stated for information only April 14, 2014. We checked the validity of these
15 documents. I don't know if other have done that and I'm not worried about them but we did and we
16 measured it out with as much precision as possible. The staging areas they purposed went right up to
17 probably the end of this table from our youngest son's room. These were very poorly done by my
18 estimation and I was wanting to ask you is this a definitive answer. Or what will this commission ask for
19 from the people who keep the actual plots, as to where things are, because we tried to measure even
20 where the pipeline was and I was almost using micron measurements on this. It back when I was in
21 physics but the kind of thing we really have not got a clear picture about what was provided to us.

22
23 Larry Wright: What document are you looking at?

24
25 Timothy Ives: This was the temporary work space and advance construction damage release document
26 from PSNC. This was the map that came with it and it doesn't exactly fit very well. So my question is
27 when you make your final determination, what avenues of information are you going to use that come
28 from the County? The reason I mention them is the 1952 agreement talked about people's properties
29 coming together and here's where it was going to come there was no designation by latitude longitude
30 there was no pictures that we could see and likewise there was no dimension again of the right-of-way or
31 of the easement. So I am still wondering where's the information that you'll use to make that and is it not
32 from the company but will it come from Orange County itself? I've heard rumors and that's all it is but
33 they are still surveying we were told by Curt Hawthorne who is no longer with them he is now back in
34 Michigan he told us but they were going to come back out and resurvey and I said who is it, the County
35 or is it PSNC or its agents? I'd like to know who's drawing up the lines that you will make the
36 determination on.

37
38 Larry Wright: Mr. Harvey when people come to your office with something like this how do you address
39 that? Is it relevant to us? To the County, I'm asking you.

40
41 Michael Harvey: I'm going to answer the question in this manner, first of all the County does not have a
42 map delineating the boundary of the Cardinal easement and I would argue it's not a legal requirement
43 that we produce said map. If there are plats that have been recorded showing it then those plats have
44 been produced based on the easement as it has been recorded. If someone comes to our office looking
45 to develop a parcel of property the county planning department does a GIS database search identifying
46 all easement that have been recorded to ascertain if there are areas of the property that have restrictive
47 development potential but Mr. Chairman if you're asking me the question are we going to produce a map
48 of any and all pipeline easements running through the County the answer is no. What you have before
49 you, as part of the application, is a drawing prepared by PSNC outlining the location of this easement
50 request and where it's going to be on the properties impacted by this application.

51
52 Timothy Ives: Mr. Chair, may I request that you verify by whatever means that document which is
53 coming from one of the parties in this discussion tonight to verify it. We, and again I use this in a crudest
54 way, we looked at ours and found a lot of different positions where our house was in comparison to what
55 they had planned as staging so I just want to make sure you have clear assessment of what you're

1 actually looking at to make a decision on. First point, I will move on. Secondly, I have not heard two
2 words tonight by any party one is rock the second is explosives. We've had a couple of things that have
3 happened to our property along the way. When the 1999 Cardinal line went through, which you've got
4 over there very rude approximation of the distance but it is really about 30, 35 feet roughly don't hold me
5 to any specifics numbers but on our property and we are on Bradshaw Quarry Road and it goes pretty
6 much for several hundred yards, relatively flat and then drops off to the wetlands and to Turkey Hill
7 Creek. When they got about two thirds of the way through and this was Cardinal, which again I realize
8 is owned in part by PSNC, but they hit hard rock and all the boring in the world could not get the drills
9 through it. I see patients all day so I got home late, and I just happened one night to run into the
10 engineer and I said is this a danger? He said well when you set off any kind of charge you have to be
11 concerned and I just happened to run into the engineer from Cardinal don't ask me his name or what
12 date it was, I can't recall, but he said think several things can happen either the explosion will take from
13 the dynamite or whatever explosive they use it will either go up, it'll go forward and backwards from
14 where they've already dug out or it goes lateral. I said that's 30 odd feet away from the 1952 pipeline. I
15 said is there a danger to that pipeline?

16
17 Matthew Rhoads: I'm going to object. This is all hearsay, this is not sworn testimony.

18
19 Timothy Ives: This is not hearsay. Sorry.

20
21 Larry Wright: Technically, isn't it hearsay?

22
23 James Bryan: Yes, this is not in area.....

24
25 Larry Wright: I have to sustain his argument.

26
27 Timothy Ives: Then please at least get some independent engineers who know about pipeline safety
28 and explosives. That's all I'm asking to put it in that. I'll stop my formal discussion. There is one though
29 that is not hearsay and you can back this up with PSNC engineers, you can back it up with the Orange
30 County Sheriff's department whereby approximately 13 to 14 years ago, the junction box at the road
31 blew. Now it did not explode but the actual pipeline itself and probably whatever couplings it had actually
32 blew off and it was like four in the morning and it had a hard roar. Our neighbors are over in the back
33 there and they had to move us a good half mile away from the actual box until they took it out or until
34 they capped it or stopped it or something. I really want and I won't get into detail again because it will be
35 hearsay in your mind but clearly I want to make sure everyone who is either petitioning this group or
36 ourselves to have a clear picture of what potentially could occur with that pipe. It really is a bit of a
37 concern when we're talking about these kind of things on something that I don't even know what the half-
38 life of that pipe is or is there any national data to back it up. That's what I'm asking you to provide, I work
39 as a scientist and I want to know what the data are to really deal with something. I heard comments
40 earlier tonight that well we don't have a clear idea about the strength of that pipe and I can't really qualify
41 that piece of pipe back there but I want to know what the data are to really suggest that it's going to be
42 safe throughout the time because we're still under that imposition. Lastly, we have measured our well.
43 We have a well and it's 20 feet from the 1952 line. That's fact that's not supposition. I would ask that
44 you would also really look into the effects of any type of activity, explosion, excavations, construction on
45 well safety and what well contamination. Has that been done to sufficient level by the County or by the
46 state or by this Board. I'd like to see some hard evidence in your picture when you get to it. Lastly, there
47 were comments about property values and I'll leave that for others to it but I also would like to know or
48 would like you to know are there other pipes that would be potentially put in terms of capacity beyond the
49 1952 line beyond the 16" line that would be provided with this petition beyond the 24" line that is now in
50 place from Cardinal are there other plans about capacity or is there a capacity to add even more lines
51 because I think having that as clear picture is going to be important for the citizens, it's going to be
52 important for any type of person looking to sell or buy property and I think we really need.

53
54 Larry Wright: I have to respectfully say that is beyond the purview of this Board. Our Board just has no
55 control. This is beyond us. We are very limited in our power.

1
2 Timothy Ives: Ok, but I think it does speak though to the.... Oh somebody was just mentioning the fact
3 that that when the pipe did blow we had to actually walk away because they restricted all cars for roughly
4 a quarter of a mile and that was Orange County Sheriff's Department that was not PSNC. We had to
5 walk on at least a quarter of a mile until the officers picked us up and took us up the road. I guess what I
6 really want to make sure is you have objective evidence that is not coming solely from PSNC or any of
7 their agents that whatever independent bodies are allowed from state government and federal that you
8 use those folks in comparing the data.

9
10 Larry Wright: We have these. It's in the packet. We have experts that the County brings in; safety
11 experts, environmental experts and so on. We have this in our packet sir.

12
13 Timothy Ives: Ok, my last question for you is can you explain the process of what happens after tonight?
14 I'm really not sure how this goes from here. Could you give me a brief synopsis?

15
16 Larry Wright: Mr. Harvey?

17
18 Michael Harvey: If the permit is issued then PSNC has the authority to begin operation and install the
19 line. Any decision made by the Board of Adjustment is automatically appealable to Orange County
20 Superior Court in the nature of certiorari within 30 days of the decision.

21
22 Timothy Ives: What happens? Are you then meeting in executive session, you review the data and then
23 you make a decision?

24
25 Michael Harvey: They are voting on the application and the evidence that has been presented into the
26 record this evening.

27
28 Timothy Ives: So you will make a decision tonight?

29
30 Larry Wright: If indeed it is within the hour.

31
32 Timothy Ives: Within the hour, then I will get out of the way because there are others who have other
33 points to be made. Thank you.

34
35 Larry Wright: Thank you.

36
37 Jeff Schmitt: The gentleman brings up some very good issues and while this may not be relevant I think
38 for the education of the citizens here in attendance, from a state standard perspective, when you have to
39 dynamite through rock and there are wells within some issue of that how is that all that handled? How
40 does that work?

41
42 Rob Priester: First I'd like to say we have instruction practices in talking with our contractor. We have no
43 anticipation of blasting on this project. If that is needed given the conditions that are present, both
44 Cardinal and PSNC, we have blasting plans that are in place that have to be approved by both
45 companies as far as the plan that the contractor is going to use. Appropriate stuff will be followed to
46 make sure the pipeline is safe and

47
48 Larry Wright: I have a follow up question. Have you, in your experience ever seen a compromised of
49 well water that would be near where the integrity of a well water near where a pipeline has been either
50 maintained or laid down.

51
52 Rob Priester: First of all, no I have not. I don't know if anybody has.

53
54 Matthew Rhoads: A gas line leak can't contaminate water. The gas will rise up through the ground and
55 into the air.

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Larry Wright: How about the additives?

Matthew Rhoads: There are no additives in natural gas.

Larry Wright: Oh, ok.

Matthew Rhoads: Fracking is maybe what you're thinking about which is...

Larry Wright: No, I'm thinking about propane.

Matthew Rhoads: Well, there's the additive for the smell.

Larry Wright: Ok.

Timothy Ives: Just to clarify my concern with the well was any construction even lateral digging or exploding both of those and how that would potentially contaminate.

Matthew Rhoads: Legally, we'd be required to pay for damage to a well whether its physical damage or contamination or anything like that.

Larry Wright: Thank you sir. Next speaker please.

Michael Harvey: Jason Thomas.

Jason Thomas: Good evening, my name is Jason Thomas having been sworn. I'm a licensed attorney in the State of North Carolina. I am an employee of the Department of Justice so I think it's important to note that I am here solely in my personal capacity and I'm not here as a representative of any kind. I live at 8107 Old NC 86, my driveway happens to be under or over I guess, the existing pipeline and adjacent to, I don't know what particular kind of station it is that they are erecting but they are erecting a station on Old NC 86 and that's adjacent to my driveway. So my comments touch upon matters within your jurisdiction that are concerns raised by my immediate experience with their construction activities on and near my property. The two areas within your jurisdiction I think are important have to do with public safety and with maintaining the character of the environment and the nature of the development in the area in which they are working. I observed, as it happens the end of my driveway is the bus stop for the public schools and the PSNC folks who are doing the work there seemed entirely uninformed of that fact and made no plans for moving the bus stop to a safer place so in effect, the school bus was stopping to pick up my children and other children in what seemed to me more akin to an industrial construction zone than a residential driveway. I was disappointed that PSNC had not foreseen that and taken steps to move, even temporarily, the bus stop to a safer place. It seems to me that you have the power by a condition of this permit to require that they make such planning and I would encourage you please to consider that. I have observed from their work area substantial amounts of sediment flowing during stormwater events into the ditches along the side of Old NC 86 and from there into the perennial stream that flows underneath Old NC 86 and eastward toward Chapel Hill. I see erosion control devices in place but they are plainly inadequate for the job so I would encourage by virtue of another condition of the permit that some kind of accelerated or perhaps slightly aggressive inspections be taken place to make sure that their sedimentation control devices don't merely comply with their plans but actually meet state standards. My third concern has more to do with the above ground structures than.

Larry Wright: You have to be sworn in, you're giving testimony.

Jason Thomas: I'll be happy to swear.

Larry Wright: Ok, just put your hand on towards the bible. Do you affirm that what you're saying is the truth and the whole truth and nothing but the truth.

1
2 Jason Thomas: I so affirm as to both what I'm about to say and what I have said.

3
4 Larry Wright: Ok

5
6 Jason Thomas: My third concern has to do with the maintaining of the character of the environment in
7 which the work is being done. There is an existing substation of some kind across 86 and the new one
8 that they are building adjacent to my driveway on the west side of Old 86. They are relatively large and
9 industrial looking facilities in which the pipes come up from above the ground and are linked to one
10 another in a variety of ways that I don't claim to understand. The one across from Old 86 appears
11 occasionally to burn fuel or waste or something and this is in a residential area. There are apparently no
12 efforts to obscure or beautify or landscape these facilities which is disappointing to me honestly. What
13 we had before they came was a woodland and what we now have is an industrial site. So I'd encourage
14 the Board in a third condition of this Special Use Permit to assure that PSNC folks take adequate steps
15 to landscape their work such that it is consistent with the surrounding use of the land which is entirely
16 residential and all the comments that I have.

17
18 Larry Wright: Thank you very much. Next.

19
20 Michael Harvey: Aaron Tartar.

21
22 Aaron Tartar: Hello, my name is Aaron Tartar, I've been sworn in. I am a property owner of 1008 Maple
23 Ridge Drive it's adjacent to the pipeline. I'm also the home owner's association president for the
24 neighborhood so I speak on behalf of myself and also the neighbors that are part of the neighborhood I
25 represent. As the gas line comes through the back of our neighborhood and the surrounding
26 neighborhoods the current easement for the 10 inch pipeline is 30 feet and the proposal wants to clear
27 an additional 20 feet so they have 50 foot of easement to lay the new to have 25 feet on each side of the
28 new 16 inch pipeline. One of the standards in the UDO says that they must act in a way that is
29 harmonious with the environment with the community to try to preserve the character of the environment.
30 What I don't understand from the proposal, page 37 does list some rough drawings of why they might
31 need 50 feet but there are no dimensions of the equipment there are no dimensions of the piles there are
32 no dimensions of what room they need to move around in that space, so it doesn't show to me why they
33 couldn't do it with less and they are proposing to take out 20 feet of width of trees which would
34 significantly affect the character of the environment and would significantly affect the harmony of the
35 community around it. I think in order for this plan to approved, they should show the dimensions
36 specifically and justify that 50 feet.

37
38 Larry Wright: The tree removal, is this in a buffer zone that was part of the development that you are
39 living in?

40
41 Aaron Tartar: Some of the trees are on a HOA common property and some of the trees are on private
42 properties that are in the neighborhood.

43
44 Larry Wright: What I'm asking is when you made plans when you submit plans for development the
45 County requires various buffers and are you aware that these may be part of these buffers?

46
47 Aaron Tartar: I'm not aware if they are or aren't but the point is that they don't specify any dimensions for
48 justifying the 50 feet that they need.

49
50 Larry Wright: I see your argument, yes.

51
52 Aaron Tartar: It may be that it can be done in 40 feet and if it could be done in 40 feet or if it could be
53 done within the 30 feet that they have already that would be a lot better for us. Maybe there is reason to
54 take 50 feet but it's just not clearly explained in the proposal there is nothing that justifies the dimensions.
55 That the only thing that I have.

1
2 Larry Wright: Thank you very much. Next speaker please.

3
4 Michael Harvey: Marcus Lesemann.

5
6 Marcus Lesemann: My concerns are addressed.

7
8 Larry Wright: Ok, thank you sir.

9
10 Michael Harvey: Jean Earnhardt.

11
12 Jean Earnhardt: Hello, I'm Jean Earnhardt and I have duly sworn in. I live on the east side of Union
13 Grove Church Road my family and I live on a conservation easement there. The pipeline runs through
14 the northern part of that easement and I know we keep talking easement but I do want to explain to you
15 that in our minds that easement is 30 feet wide because that's what it always has been when they put in
16 the original pipe they didn't need any additional land to put it in and maintain and they have maintained it
17 very nicely through the years and kept it clear but that is why it is so hard for so many of us to envision
18 50 feet clear cut all of a sudden. I specifically have some concerns that I think planning and the health
19 department would want to address. Glen Morgan is a community on the west side of Union Grove
20 Church Road and I was, my husband and I were the developers. We did a cluster development which
21 the County permitted then, I don't know if they still do or not, and we wrapped it up in open space. About
22 six of those lots are right up on the easement. They're less than 2 acres maybe 1.8 acres. If you live in
23 the city, 1.8 acres sounds like a pretty big piece of land but if you live in the country where you've got a
24 house footprint, a driveway, a septic tank, a septic tank field, a back-up field and a well that uses up a lot
25 of that 1.8 acres. I have not seen any kind of assurance from PSNC that before they clear cut in the
26 ones on the south side are the ones that are going to have an additional probably 15 feet cut, I've seen
27 nothing that says they'll learn in advance what impact that could have on those smaller tracts. They say
28 well we'll pay for damage but if you damage a septic field, you're going to have to condemn the house
29 aren't you? It's a pretty serious thing especially with the kind of soils we have out there. I guess that's
30 concern that I think legitimately you could address, am I correct?

31
32 Larry Wright: Thank you very much.

33
34 Jean Earnhardt: I want to say one more personal thing. When my father and mother signed the original
35 agreement 62 years ago, somewhat reluctantly, how would they have ever guessed that I would be here
36 62 years later talking to you all.

37
38 Larry Wright: Thank you very much.

39
40 Jean Earnhardt: I got to put the cap on it though, I hope in 25 years that my children and grandchildren
41 are not here objecting to a 24 inch pipe.

42
43 Matthew Rhoads: We do too.

44
45 Larry Wright: Thank you very much. The next speaker please.

46
47 Michael Harvey: Jay Bryan

48
49 Jay Bryan: I do need to be sworn.

50
51 Larry Wright: Do you affirm to speak the truth and the whole truth and nothing but the truth.

52
53 Jay Bryan: Yes sir. Thank you for your service tonight to everybody and your patience with us. My
54 name is Jay Bryan, I own a property with my wife at 8033 Old NC 86. I think you have before you the
55 right-of-way dated September 23 in 1952 which encumbers our property. We say to you, and I've heard

1 the statements made that it is not within your purview as to the easement and its legality, but I want to
2 say to you that we content that because it doesn't have a width, it's not a valid easement.

3
4 Matthew Rhoads: If I can object, we've had a lot of testimony on the width of the easement. That's not
5 relevant to any of the criteria. That is something that is a legal issue whether the easement already
6 allows it or whether its not and that's for a different forum given that the Board has indicated an interest
7 in ending by 11 o'clock and my client has a significant interest in having this decided tonight, we would
8 ask that any irrelevant testimony be limited. I would actually ask and it's in the Board's purview to limit
9 further testimony to five minutes each unless there's...

10
11 Larry Wright: We can't do that. We cannot limit testimony.

12
13 Matthew Rhoads: My understanding is legally you can but that's

14
15 (UNKNOWN AUDIENCE MEMBER) You had an hour and forty minutes

16
17 Larry Wright: Please no discussion. It's between the attorneys now.

18
19 James Bryan: What I would recommend is there is an objection as now, for the Board to decide on that
20 matter. If they decide it is relevant. If they can find a link to one of the standards whether that would be
21 met or not met because of the testimony, let it proceed. If not, direct the witness to move on to a new
22 topic.

23
24 Jay Bryan: If I could be heard as to the objection by my esteemed colleague, as to the relevance.

25
26 Larry Wright: Speak to the relevance.

27
28 Jay Bryan: As to the relevance, I'm speaking to the 5.3.2.a.2.b that they must show that the use will
29 maintain or enhance the value of contiguous property.

30
31 James Bryan: Unless it's a public necessity.

32
33 Jay Bryan: The way PSNC is choosing to interrupt this easement.

34
35 James Bryan: Mr. Chair, I'm sorry to interrupt but I think for the record it should be clarified whether
36 you're sustaining the objection or ruling the objection. Whether you want to hear more testimony or not.

37
38 Larry Wright: Do we want to hear more testimony?

39
40 Jeff Schmitt: I do

41
42 Karen Barrows: I'd like to hear what Jay has to say.

43
44 Larry Wright: Ok, proceed.

45
46 Jay Bryan: I think you heard earlier that PSNC essentially says that when they run out of capacity they
47 are going to put another line and the way they put another line is to measure off the existing line.
48 However many feet that is and they indicated that in their records. Ten years from now, the way they're
49 interrupting it, they can come up onto our property again and put in another line and they can keep going
50 because there is no definition under this easement as to the width. So, in essence, their easement
51 encumbers our whole property. Basically, if that doesn't undermine the value of our property, I don't
52 know what does.

53
54 Larry Wright: Mr. Rhoads, didn't I ask you the question does the easement increase and you said no, if
55 you had more pipelines, I asked you if that grows, that easement grows. Did you not say no?

1
2 Matthew Rhoads: The easement, because it does not have a specified width, is what is reasonable to
3 carry out the rights granted. The rights granted specifically grant the right to put in additional pipelines.
4 So it's not that the easement width grows, it's the different portions are used. If there are two pipelines
5 they need to use 50 feet but again, I am objecting to all of this because the width of our easement is not
6 relevant in any way to any of the criteria before the Board. And quite honestly I think we're getting to a
7 point now where we are forty minutes from the deadline that the Board would like to meet. My client is
8 entitled to a fair hearing in due process which we think means a decision tonight so to the extent that the
9 Board has decided to stop at 11 o'clock, we feel like we are entitled by due process to not have that time
10 taken up with what is irrelevant testimony. Testimony that is not relevant to any of these criteria. Now if
11 you'd like to the extent that we missed that 11 o'clock deadline because this irrelevant testimony it
12 compromises our due process and fair trial.

13
14 Larry Wright: I understand what you're saying. Mr. Bryan?

15
16 James Bryan: What's the question?

17
18 Larry Wright: I want to know where we are.

19
20 Jay Bryan: I'll leave that issue for what it is. You all know the point I'm making and have made and this
21 side has indicated that there is no width to this easement and they can.

22
23 Mark Micol: Do you see the pipeline as a public necessity?

24
25 Jay Bryan: Not for my needs and I don't believe that they've addressed that sufficiently.

26
27 Mark Micol: But you could say a highway may not be to your needs but the highway is still a public
28 necessity, correct?

29
30 Jay Bryan: It's true. But it has to be subject to the and the other aspect of it is the location and character
31 of the use is supposed to be harmony in the area.

32
33 Larry Wright: Let me ask you a question, if indeed there is insufficient gas to supply medical facilities
34 etc., isn't that within the public element interest?

35
36 Jay Bryan: It is. The issue really is I would like them to be restricted to this additional pipeline and to
37 define the easement as whatever it is, 40, 50 and that's it. Right now we have nothing to defend against
38 in terms of what I just said. As far as the public interest, I'm not going to argue with that. The second
39 sets of concerns arise, and I'm going to try to be brief, but we live in two watersheds. Our property, I've
40 circled the watersheds, and our property is in the middle of it. Over the last year/ year and a half we've
41 suffered a series of floods and I'm going to hand up what have been marked exhibits Bryan 29, 30, 31,
42 32, and 33. I don't have copies for the attorney although I can show him some. These photographs
43 show you the flooding that occurred at our property over the last couple of years from rain that has come
44 from other properties including the property that is being developed by PSNC and down the hill that we
45 reside below. When I wanted to get some help regarding the issue of the way PSNC was developing the
46 transfer station, I went to the Town of Carrboro. The Town of Carrboro told me they did not have any
47 jurisdiction even though it turns out they had issued a permit for the transfer station. I then came to the
48 County, the County told me that they'd had no control over sedimentation and erosion anything else
49 about the property that I needed to go to the state utilities commission. I went to the state utilities
50 commission and they were not of any help. I went back to the County the County told me to go to DENR.
51 I called DENR and DENR is the person that have been overseeing the sedimentation and control. The
52 problem for us and I'm going to quickly hand up pictures, I'll tell you what the picture is. The problem is
53 as I said we have water coming from the south and from the north through our property. That is what
54 has caused this kind of flooding. We are extremely sensitive about water, additional water coming onto
55 our property. The development of the transfer station has indicated, and these pictures will show, that

1 their quality control over water coming off their property and sedimentation is way below standard. We
2 are very concerned that their development of the pipe on our easement, the construction on it, the
3 clearing of the trees will add water to our property that will reduce its property values so I'm just going to
4 hand these up quickly because I know you are running out of time but that's the other issue. That
5 construction work, unremedied will cause the kind of damage that you're going to see in these pictures.
6 The first picture is a picture of the cleared property to our south.

7
8 Larry Wright: How many of these do you have?

9
10 Jay Bryan: A few.

11
12 Larry Wright: Can you condense it.

13
14 Jay Bryan: I will, let me hand up just a few of these. Just to show you the quality of the sedimentation.
15 I'm just going to hand them up to you.

16
17 Larry Wright: I'm not sure what we can do about this as this Board.

18
19 Matthew Rhoads: I think the question is whether to approve the application which includes our
20 sedimentation and erosion control permits so to the extent that he's arguing that we're not following
21 those permits on something else, I don't think that's relevant. The question is as it's in the application
22 being considered. If we don't comply with our sedimentation and erosion control permits that's obviously
23 a big issue and that's addressed. So to me this is kind of irrelevant.

24
25 Jay Bryan: Well, we're asking the Board if you have the power to set conditions that would require that
26 the County oversee the sedimentation control and any control on this easement and that they be
27 required to repair any damages that occur as a result of their construction including flooding on our
28 property due to the pictures I've shown you that we've spent thousands of dollars on for a period of time
29 after.

30
31 David Blankfard: I don't think there's a way that this Board can control for a state run division they can
32 fine contractors daily when their erosion control measures fail. To put a condition on their construction is
33 unenforceable. To find out how much water is actually being from their property is not known.

34
35 Jeff Schmitt: Mr. Harvey, the comment here is that the County will have no authority to look at any of the
36 erosion control and how they have followed the permitting. That's going to be done strictly by the state.

37
38 Michael Harvey: The state is going to issue the permit and the state bears the responsibility of the
39 inspections. That is a correct statement.

40
41 Jeff Schmitt: Thank you.

42
43 David Blankfard: The state gets complaints and they have a hot line. And you will call them and they will
44 show up the next day.

45
46 Larry Wright: Ok, can we.

47
48 Jay Bryan: Just one last comment about that. Just for your edification as a Board that is involved in
49 setting plans and policies for the County. DENR has been gutted. John Holly, lovely man, haven't ever
50 seen him. I don't know what they're doing but when you look at the pictures, if you're telling me that's the
51 kind of job that DENR does to regulate the sedimentation, citizens of this County need better support.

52
53 Larry Wright: We don't set policy people back there do. We have to go by what they say.

54
55 Jay Bryan: I understand.

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Larry Wright: Next speaker.

Michael Harvey: Steve Hancock.

Steve Hancock: My name is Steve Hancock, I have been sworn. I live at 8125 Heather Lane. My property will be crossed by this pipeline and I received no notice from PSNC of that other than notification of this hearing. I don't know what to do about that. I do have survey.

Matthew Rhoads: We're happy to speak with Mr. Hancock outside the hearing, I'm not sure how that would have happened.

Steve Hancock: It's a very small portion maybe 20 feet.

Matthew Rhoads: We're happy to talk to you.

Larry Wright: Do you have anything else? How about you to about this outside the meeting. Do you have anything else?

Steve Hancock: Ok, I do not.

Michael Harvey: The next speaker is Wendy Feldmann

Ann Oliver: Wendy wants me to go. My name is Patricia Ann Oliver and I live at 5502 Cascade Drive in Chapel Hill. I've been sworn. I have a good through presentation about consents that the Board is not interested in hearing much from us so I'll try to speed through this. I did have some PowerPoint but that's not going to happen but I printed it out and I think I have enough for all of you.

Larry Wright: The whole thing is what we have to convey to you. While you're handing this out, it's not that we're not interested it's that we are very confined with what we can actually decide here tonight. It has to be within the Unified Development Ordinance and the 2030 Comprehensive Plan. We are not a judicial body. We cannot make policy the policies that we follow are actually guidance from the Commissioners and so that's all we can do. You can talk to three in the morning but

Ann Oliver: Apparently not

Larry Wright: We can only rule on that.

Ann Oliver: So I had a statement, it was based on a letter that I've sent to the County Commissioners. I've also included some supporting documentation of CDs that the statement will be on if you all, I mean you're going to vote tonight so

Larry Wright: We may

Ann Oliver: I don't know that y'all care to even see what I've

Larry Wright: We do care it's just that we want statements on standards with documents

Ann Oliver: They want y'all to vote before 11 o'clock its clear so I will try to rush.

Mark Micol: They don't make the decision on when we vote, ok. The Chairman does.

Ann Oliver: So the first slide is my property. It's on Dairyland Road it's not a lot. I think I've got like 56 feet, 4 rods that that they're will to pay me 4 dollars for, a dollar a rod for. My neighbor who unfortunately couldn't be here tonight, you'll see their property, there's a house and it looks like their house is about, I

1 don't know at 20, 25 feet from their easement. One of the issues I wanted to talk about and I think that
2 I'll contact people on the Planning Board maybe the County Commissioners about the idea of starting to
3 do some kind of consultation creating a consultation zone that I think these people know about where
4 you don't allow homes to encroach on these easements that once you allow encroachment that's when
5 things happen. I am going to speak to safety.

6
7 Larry Wright: Are you a safety officer?

8
9 Ann Oliver: No, but I have done a lot of research.

10
11 Larry Wright: You have to be have credentials to be able to address these elements. We can only take
12 expert testimony.

13
14 Ann Oliver: Well you can look at these pictures and tell me if this is safe.

15
16 Mark Micol: Is that on the existing pipeline?

17
18 Ann Oliver: These, and there's one in here that PSNC, they had an explosion, and this year in Asheville
19 they, and I've got information about that. I've got the, on your CD, you would have the report that they
20 filed with DOT, USDOT. That was an old pipe, that pipeline was damaged in 2003. It was two pipelines.
21 They installed one in 2003 when they did it they damaged an existing pipeline that I think was installed in
22 1963. They inspected that pipeline that erupted twice a year. Their inspections did not reveal any kind
23 of corrosion or damage but that pipeline exploded.

24
25 Matthew Rhoads: Following up on what you were saying, she's not an expert in pipeline safety so we
26 believe that any of this is not legally competent. We object to the entire PowerPoint that has been
27 handed up. It's all hearsay, internet research, we can't cross examine anybody who wrote any of those
28 things. As to the pipeline in Ashville, my only comment to that would be the one that was damaged 10
29 years later had an issue because of the damage that would have been detected had they been able to
30 pig that line which this line can be pigged. So that damage could not be detected in line it would have
31 been detected in this line. That's just the nature of progressing technology.

32
33 Ann Oliver: Is the 10 inch pipeline being pigged?

34
35 Matthew Rhoads: The 10 inch pipeline at the end of this project will be able to be pigged and it is
36 currently not able to be pigged. So this will increase the safety of not only the new pipeline but the
37 existing pipeline.

38
39 Ann Oliver: So, in my testimony, I pulled a lot of information from the USDOT's website, from the
40 pipeline and hazardous material safety administration, there's a lot of information in here with supporting
41 reports that are peer reviewed that I would like y'all to take a look at. These guys know that there things
42 called a high consequence area they have to by regulation, look at where their pipelines are and
43 determine if any of them are running through what is called a high consequence area. Is that not
44 correct? All of their pipelines are required to run a calculation to determine what the potential impact
45 radius is and that determines if there is an explosion how far out this

46
47 Matthew Rhoads: Again, I object. She's not an expert on this that's actually not what the PIR does.

48
49 Larry Wright: Right, and the only thing we can go by is what our County issues with safety documents to
50 us, our Planning Board issues. If you want to bring this up at one of their future hearings or the utilities
51 commission by all means do it but this is not within our power.

52
53 Ann Oliver: Ok, fine. I would like to know what the PIR is for my pipeline that runs through my land
54 anyone that goes through. I want to know what the PIR is combined with two pipelines.

1 Larry Wright: Take that up with Mr. Rhoads after.
2
3 Matthew Rhoads: And we're happy to discuss that with you.
4
5 Ann Oliver: Cause I'm beginning to think that my land is uninhabitable based on what I'm
6
7 Larry Wright: All right. That is way beyond our purview. Ok.
8
9 Ann Oliver: Thank you for nothing.
10
11 Larry Wright: It's not that we don't sympathize it's just that is the way it is.
12
13 Ann Oliver: I'm talking to safety. I want to know who is going to respond to these.
14
15 Larry Wright: You're going to have to talk to Mr. Rhoads, okay.
16
17 Ann Oliver: Can I not ask you if that pipeline explodes on my house, who is going to come and rescue
18 us. Who is going to deal with these infernos are they trained, who are they? I've never received a
19 notice from these people about pipeline safety. Ever.
20
21 Larry Wright: Ok, talk to Mr. Rhoads about that.
22
23 Ann Oliver: Are y'all not supposed to address safety?
24
25 Larry Wright: We address safety as it is part of our packet, we have to take testimony from an expert.
26
27 Ann Oliver: So if they say it's safe.
28
29 David Blankfard: As part of the packet it says the EMS and fire department can handle
30
31 Ann Oliver: So they're trained to do this to address they perfectly trained
32
33 Matthew Rhoads: There was testimony earlier that they have a liaison and work with EMS and fire and
34 police. They are already trained to respond to the 10 inch line that is there.
35
36 Ann Oliver: So, if you look at the pictures from the San Bruno explosion look at the first responders and
37 they are standing there like this.
38
39 Matthew Rhoads: We have nothing to do with California.
40
41 Ann Oliver: Of course not. Well I'm sorry y'all you aren't sympathetic.
42
43 Larry Wright: That's not...Next
44
45 Michael Harvey: Actually, let me remind the Board of a couple of things with respect to that point. The
46 Orange County's fire marshal's office has requested a condition be imposed on the issuance of this
47 permit that the applicant is required to coordinate a scheduling of a meeting to review, develop, modify
48 emergency action plans in the event of a gas line leak and eruption.
49
50 Matthew Rhoads: We don't object to that condition.
51
52 Michael Harvey: That is something that they are specifically asking for to address some of the concerns
53 we've heard tonight. I will not respond to the question of training because I am not an expert and I can't
54 offer that but what I can tell you is this is what the emergency management department has asked for to
55 try to answer Ms. Oliver's question.

1
2 Larry Wright: The next witness.

3
4 Michael Harvey: I'm going to go back to Ms. Wendy Feldmann.

5
6 Wendy Feldmann: I think most of the stuff is either going shot down or not be relevant since I'm not an
7 expert so I can't speak on the topics other than they personally affects me and how we've been treated
8 by PSNC.

9
10 Larry Wright: Next witness.

11
12 Michael Harvey: Kenneth Feldmann.

13
14 Ken Feldmann: Ken Feldmann and I have been sworn in and I live at 5715 Buckhorn Road. One of the
15 things I'd at least like somebody to address or at least look into is in our backyard is Turkey Hill Creek
16 which is a watershed it feeds into Cane Creek and a 100,000 people in Chapel Hill/Carrboro drink that
17 water but part of that proper watershed is the animals and stuff that live there and during the droughts
18 and stuff we've seen that there are fresh water mussels living in that area and at least we would like an
19 assessment done to say ok you're not killing when you trench through that creek any endangered
20 species. A lot of the fresh water mussels in North Carolina are either on the state or state owned federal
21 endangered species. I would also talk a little bit about the right to use of the current easement of the one
22 time we attempted to use the easement, was we were having some trees cut down in our yard and the
23 people who doing the logging parked their vehicles on the pipeline and they do surveillance flights
24 occasionally over there and they flew by and the plane kind of took a closer look and some people in the
25 volunteer fire department took a look out and thought the plane crashed and went all out searching for it.
26 I don't know it that matters or not but the next day the representatives from PSNC came along to see
27 what we were doing on the pipeline and the vehicles were parked on it and we were strongly encouraged
28 to not have those vehicles on the pipeline because they were sitting on top of the 1952 pipeline and they
29 considered that extremely fragile. So that's just something when they're doing the construction on this if
30 they're five years or seven years ago, I can't remember exactly when we had that done, if they are
31 worried about the integrity of the 1952 pipeline to encourage us not to park heavy vehicles on it what are
32 they going to do to do the construction?

33
34 Matthew Rhoads: We are happy to address that. I mean outside of this forum.

35
36 Ken Feldmann: Ok. The other concern I have is they were talking about how they properly maintain the
37 pipeline well our section of the pipeline when Cardinal came through planted a bunch of bush clover
38 which is kind of an invasive species but it grows about 7 feet tall and every year or year and a half or two
39 years or so one of the pipeline crews comes by and bush hogs it. In that process they come and knock
40 down all the markers or at least a good bit of them. They are either plastic or some of them are
41 aluminum and they get knocked down so there is really at any time there's one or two markers on a
42 couple of about well I think we have 800 feet right-of-way for those things and at one point we are on the
43 other side of the other pressure release valve that blew one day we had ours going off so I walked out to
44 the pipeline and it had a nice 20 foot plume of natural gas. I probably should have called 911.

45
46 Larry Wright: Do you have another point sir?

47
48 Ken Feldmann: But I went out there to find the phone number and to call off the signs and I couldn't find
49 one. Except close enough, really close to the valve. The pressure release valve, which I wasn't going
50 near. They did make proper maintenance of the pipeline is one of the regulations they are supposed to
51 follow and I have lived there for 15 years since 99 and I've seen the signs go away. There might have
52 been a couple come back but.

53
54 Larry Wright: Ok, thank you very much.

1 Michael Harvey: Mr. Chairman there are a couple of points I'd like to make on some of the questions
2 asked about all this, I don't if this is going to answer but I'm going to provide it anyway. In the packet of
3 information that PSNC provided this evening and there is a letter issued by the US Department of the
4 Interior dated March 21st of 2014 it is signed by Pete Benjamin a field supervisor what this letter indicates
5 in the fourth paragraph of the second page is that basically the information provided and other
6 information available that appears that the proposed action, i.e. the pipeline project through Alamance
7 and Orange Counties, is not likely to adversely affect any federally listed endangered or threatened
8 species their formally designated critical habitat or species currently proposed for listing of the act. There
9 is concern they state in this letter about the potential impacts the proposed act might have on aquatic
10 species and they're requiring and mandating that PSNC obtain an erosion and sedimentation control
11 plan from the North Carolina Division of Land Records Land Quality Control section prior to construction
12 and that all controls need to be installed and maintained between the construction site and a nearby
13 down gradient surface waters and that all existing natural vegetative buffers have to be maintained.

14
15 Larry Wright: Thank you. Do we have another speaker.

16
17 Michael Harvey: Yes, Thomas Averette.

18
19 Tommy Averette: Yes, my name is Tommy Averette I'm at 3818 Mebane Oaks Road and I really don't
20 have nothing. It's already been addressed pretty much what the meeting's about so.

21
22 Larry Wright: Ok, thank you.

23
24 Tommy Averette: Thank you.

25
26 Michael Harvey: That's all that signed up to speak sir.

27
28 Larry Wright: Ok

29
30 Joseph Zaragoza: I have a question. I'd like to follow up on one item. Again this is my property the 100
31 by 100 PSNC valve station earlier it was mentioned that SUPs that PSNC does get for all their valve
32 stations and SUPs for valve stations. My forty years being in land development and land planning I've
33 never seen a Board like yours approve a plan without plans in front of you. What do I mean by that, you
34 have no plans for this valve station. Take a look at your plans, no plans. I don't see how you can
35 approve a plan without having seen the plans. I challenge you on it. There is no plans on this.

36
37 Larry Wright: I hear you.

38
39 Matthew Rhoads: The question is the application. You guys are being asked to grant the permit based
40 on the application. If he feels like that is outside of the application then when we come and knock on the
41 door to start construction I guess that's an issue to handle then.

42
43 Larry Wright: Mr. Harvey, you're the one that compiles these applications how that impact the lack of
44 that of the package we have here. The integrity of the package that we have here? In what we are to
45 decide tonight, in the standards by which we make our decision tonight?

46
47 Michael Harvey: Well, let me just say this Mr. Zaragoza is correct that there is no formal plan in this
48 packet showing the valve station. There is obviously the area delineated on page 19 of 49 of this packet.
49 Where they've denote and designate the area. There is obviously no valve apparatus present on this
50 document and there is no valve apparatus present in the packet. One of the things that PSNC has
51 argued to staff is that when you read Section 5.2.1 of the Orange County Unified Development
52 Ordinance, I'm sorry it's 5.1.2 of the Unified Development Ordinance, is that their use is permitted as a
53 matter of right in every zoning district and one of those happens to be a pressure regulator relief station.
54 So their argument has been to staff that this is a pressure regulator relief station. There are standards
55 that they'll have to go by with respect to landscaping, buffering, establishment in Section 5.9.1 of the

1 Unified Development Ordinance. This application is for a pipeline and I am, without trying to punt the
2 football back to PSNC, I am going to let them respond to the arguments that they made in submitting the
3 permit application and scheduling the hearing. Their argument to me originally was this, in their mind
4 was a pressure relief regulator station per Section 5.1.2 of the UDO.
5

6 Matthew Rhoads: And we do believe that and we don't believe it is necessary to part of this but even if
7 for some reason later it's determined that should have been part of this proceeding that is not relevant for
8 the Board tonight. The question is the application as we've submitted it. Do we get the permit for that
9 application? Maybe that's another fight we have to have later whether that application that if you guys
10 approve it, whether once it's approved, that allows us to do that pressure relief station or not but I don't
11 think that is relevant to the Board voting tonight. I think that you vote on what the application is.
12

13 Joseph Zaragoza: It's never been called the pressure relief valve station.
14

15 Larry Wright: Just a second sir. Mr. Harvey, from what he said, how does one go back if we..
16

17 Michael Harvey: I think this resolves the issue at least in my mind and then PSNC is going to respond.
18 The first point with respect to Noman Clay Drive not going to get into an argument about but the second
19 point is are they required and obligated under the Ordinance as it's listed to show this valve station. If we
20 all agree that it has to be shown and you decide to issue this permit, you're issuing this permit for the
21 pipeline only not for the valve station or whatever this is going to be. Under that scenario then PSNC
22 would have to come back to modify this Special Use Permit for another public hearing to do that. Which I
23 believe is, without putting words in Mr. Zaragoza's mouth is his point.
24

25 Larry Wright: Is that your point sir?
26

27 Joseph Zaragoza: That would work. Yes.
28

29 Larry Wright: Mr. Rhoads?
30

31 Matthew Rhoads: Yes, my point is if it is determined later that that valve site should have been part of
32 this application then we will have more work to do in that regard but our position is that it doesn't need to
33 be in there but regardless, if you approve the application, and it doesn't include the valve site, then it
34 doesn't cover the valve site. If we determine that we need a Special Use Permit for the valve site then
35 we would have to come back but I don't see not including a facility, let's say we even admitted tonight
36 yea that should be in there, which we are not admitting. That doesn't mean that you can't rule on the
37 application as it is and it applies to the as it is so then it would not apply to the valve station and we'd still
38 have that issue outstanding to deal with separately. Our position is that the valve station does not
39 require a Special Use Permit. If the Board grants the permit tonight it would be for as it's in the
40 application and I'm sure we'll have more discussions with Mr. Zaragoza and Mr. Harvey as to whether
41 then have the right to build that valve or not. Or whether we need to come back and get another SUP.
42

43 Michael Harvey: Not to interrupt you sir, it wouldn't be another SUP it would be a modification of this
44 existing Special Use Permit.
45

46 Matthew Rhoads: All right.
47

48 Michael Harvey: Just so we're clear.
49

50 Larry Wright: Ok
51

52 Michael Harvey: Mr. Chairman, I think what the Board and you need to talk to Mr. Bryan but I think what
53 the Board has to do and ought to do in terms of the integrity of the process is there needs to be an action
54 to approve the application as submitted and that staff needs to make a formal determination as required
55 by the Unified Development Ordinance on whether or not what is proposed constitutes a modification of

1 the Special Use Permit. And then PSNC either has the ability to appeal that decision if it's against their
2 favor or come back for modification. This Board can however, if it so chooses to take action on this
3 permit to either approve or deny in approving could stipulate that this does not include the disputed
4 valve/regulator station that Mr. Harvey is directed to make a determination as to whether or not it
5 constitutes a modification or not.

6
7 Larry Wright: I think we can do that in closed hearing. Do you agree Mr. Schmitt?

8
9 Jeff Schmitt: Yes.

10
11 Larry Wright: Do you have a comment sir?

12
13 Steve Hancock: I have 5 second question. Since my property wasn't included on the application, does
14 that make the application incomplete?

15
16 Matthew Rhoads: Our position is that the application is what the application is and if it doesn't cover a
17 property that is it is supposed to then we can't build on that property because it's not in the application.
18 So the question of whether we left something out and if we left a property in the middle of the pipeline out
19 that doesn't mean you deny the application because you don't think everything is in there, it means if you
20 approve it, we've still got a hole we have to go take care of.

21
22 Michael Harvey: That would also be a modification having to come back before this Board for
23 modification of the Special Use Permit.

24
25 Matthew Rhoads: But we believe the application is complete in all regards.

26
27 Karen Barrows: So, can I just ask in all this stuff of people that were sent notices, you're Mr. Hancock,
28 he's not in here.

29
30 Michael Harvey: What Mr. Hancock is arguing is that the pipeline goes through his property and he's
31 arguing that according to PSNC's application as submitted he has not been listed or contacted as having
32 the pipeline go through his property. And as a result, since his property is not shown on this, PSNC has
33 no legal right if the SUP is issued to do anything on his property because it never got approved by the
34 County. If that is truly the case, then PSNC will have to come back and do a modification to include his
35 property and there will have to be another application another public hearing.

36
37 Matthew Rhoads: We can't answer whether that's the case or not right now.

38
39 Michael Harvey: But it would only be for that specific parcel of property where the easement is going to
40 be renegotiated depending on what the Board decides to do this evening and then you also have the
41 regulator station which we'll also address at a later point.

42
43 Larry Wright: I'd like to address the members of the Board, it's now 10:59, I would like to keep going with
44 this hearing because I think we're at a point where we can have closure tonight. Ok, Mr. Rhoads did you
45 have some summary statements.

46
47 Matthew Rhoads: I will be very brief and I absolutely appreciate the Boards' willingness to stay at this
48 late hour. Again, I raise the objection that legally this is preempted by federal and state regulations and
49 that it's not actually something that the County can require but as you know if we show competent
50 material evidence of all criteria we are entitled to the permit so I just very briefly want to go through the
51 criteria. The first one is the use will maintain or promote the public health, safety and general welfare
52 you heard testimony from Mr. Priester that it meets and exceeds all regulatory requirements state and
53 federal for safety that they are putting the pipeline deeper than they have to. They are building it in a
54 type of steel inside the construction that would be sufficient for a much higher pressure than they are
55 actually going to do all these different safety things where they're exceeding the regulations. We talked

1 about the integrity management plan and how they inspect inside using a robot and how they aerially fly
2 the line and check for encroachments and how they do leak detection and things like that all these things
3 to ensure that the pipeline is safe. They have an emergency plan in place which is part of the federal
4 regulations all of these go towards the safety of the line. It is going to be state of the art and quite
5 honestly these lines go through everywhere now that you guys have one of these cases you'll probably
6 notice pipeline markers as you drive around wherever these are not anomalies they are around densely
7 populated the City of Austin has got a gas main transmission line going through it so it's perfectly safe. It
8 also promotes the public welfare in that it provide natural gas to the public for heat and natural gas
9 actually supplies a lot of the electricity because a lot of the power generators comes from that. So it
10 actually promotes public welfare by ensuring a natural gas supply to the area. The next one is it will
11 maintain or enhance the value of contiguous property unless the use is a public necessity in which case
12 the use need not maintain or enhance the value of contiguous property. It is a public necessity by
13 statute chapter 62-2 says that the availability of an adequate reliable source of natural gas to the people,
14 economy and government in North Carolina is a matter of public policy. The only testimony you've had is
15 that there is not an adequate supply without this line so public policy is that we need gas we have a
16 statutory obligation to have an adequate supply that definitely makes this a public necessity but even
17 aside from that there has been no evidence that the value of contiguous property will be reduced. That is
18 one of the things that has to have expert testimony there has been no expert testimony saying that it will
19 be reduced we do have testimony that it won't be reduced and if there is an existing 10 inch in a lot of
20 these properties and in a lot of these properties an existing 24 inch so the addition of one more line is not
21 going to reduce the value. The next criteria is the location and character of the use will be in harmony
22 with the area and comply with the Comprehensive Plan and other development regulations. Again, there
23 is already a pipeline there it is harmonious with that use there is already a cleared strip. People already
24 are used to having the line there. Almost everything is going to be underground facilities so that's
25 harmonious this is not a giant transmission tower so that's harmonious this is not a giant electrical
26 transmission tower and staff agrees that it complies with the Comprehensive Plan. Next criteria, method
27 and adequacy of provision of sewage disposal facility, solid waste and water. The only testimony is that
28 there is not any need for sewer, water or solid waste disposals so that's not an issue. Method and
29 adequacy of police, fire and rescue squad protection the only testimony is that there is adequate nearby
30 police, fire and rescue that they already are aware of the 10 inch line and have outreach programs and a
31 liaison with the company to ensure that those are covered. Next criteria is the method and adequacy of
32 the vehicular access to the site and traffic conditions the testimony is that typically we access the
33 easement by the easement drive up and down the right-of-way. Most properties there is other access if
34 we need it to cross the property and we have to pay damages if we damage the property then. Where
35 we need any additional access we negotiating those rights with land owners still so the access is fine it's
36 not going to increase traffic because there is already a 10 inch line there that the right-of-way is being
37 maintained and inspected. I'm sorry, I'm trying to fly through these. The next one is special submittal
38 requirements the site plan erosion and sedimentation controls cross sections plans and elevations and
39 certification by the applicant that it's a public utility the only testimony is then that all of that's been done
40 staff agrees that's been done. Adequate provisions have been made to protect the adjacent property
41 from the dangers of explosion, eruption, collapse, fire or other menaces to public health and safety.
42 Again, that really kind of goes back with all the public safety issues and everything we've done to
43 address that. The only competent testimony has been that it does adequately provide for those
44 protections. Again, just the integrity management plan showing how often they inspect and maintain and
45 keep the right-of-way cleared all of those things go to show that as well.

46
47 Larry Wright: Let me ask you a question on the right-of-way. So when there was testimony tonight
48 about a school bus stop and a driveway and so on. Do you work with DOT on that to figure out, you're
49 going to be putting something up and if you're blocking vision of on a curve or something like that do you
50 work with DOT on this?

51
52 Matthew Rhoads: We have to get permits from DOT if we are doing anything in right-of-way. That's the
53 first I think we've heard of that issue and something we're going to look into that school bus issue.

54
55 Larry Wright: Ok, yeah I was figuring that was probably something you'd have to deal with DOT on that.

1
2 Matthew Rhoads: My guess is that may be a contractor doing something other than what we thought, if
3 that's happening. The public needs and necessity shall be served by the proposed installation. Again,
4 the only competent material evidence is that it will. The statute requires us to have an adequate supply
5 of gas. The statutes say it is a public necessity so that's covered. The final one is proof of liability
6 insurance which the only evidence is we provided that and staff agrees. So there is competent material
7 evidence supporting each one of those criteria there is really no competent material evidence
8 contradicting any of that so as a matter of law we believe we are entitled to the permit. We would ask
9 that the Board grant the permit.

10
11 Larry Wright: Are there any questions from the members of the Board. Hearing none, Mr. Harvey?

12
13 Michael Harvey: As is the usual procedure we would like to review attachment 4 which is the findings of
14 fact. This begins on page 271. Sections 2.2 and I'm on pages 272 and 273. Sections 2.2 and 2.7.3
15 essentially deal with the submittal of an application, payment of fees, submission of necessary
16 documentation as far as a detailed narrative, property owner lists.

17
18 Jeff Schmitt: Larry, did we close the public hearing?

19
20 Michael Harvey: Not before I'm done because I can't answer any questions after the hearing is closed.
21 You will note that staff has provided you with the evidence that is available indicating that the applicant
22 has met their burden, we have for example in attachment 2 a signed application, detailed narrative, a site
23 plan, we have a copy of the insurance certificate that is required by the unified development ordinance
24 and that is on page 182. I will remind you that it is for a million dollars per occurrence instead of 500,000
25 that our ordinance requires. The applicant submitted the site plan with the appropriate notes did
26 modifications at staff's request specifically specifying that all property disturbed will be reestablished to
27 its previous disturbed level. All solid waste will be disposed of in accordance with applicable county
28 regulations. I am going through now to page 275. Notification requirement, you'll see that staff provided
29 the various attachments in what was done. I will remind the Board that since we had to delay this
30 hearing we sent out actually first class mailing notices to folks reminding them of the moved date which
31 meant also the 15 day advertising deadline. One of the reasons we chose 1st class and it was actually
32 out of a discussion with Ms. Oliver here in the audience, she got her certified mailing notice almost 7, 8
33 days after the letter had been mailed. Part of that is because of the consolidation of, at least in my
34 opinion, is a consolidation of post office duties in the Chapel Hill/Carrboro area which is exacerbating the
35 picking up of certified letters. This will be something that staff is going to have to talk to the County
36 Commissioners about ensuring that people are getting their notice in an appropriate manner. One of her
37 concerns to me was she had an inadequate time to prepare for the hearing. It was fortuitous that
38 unfortunately we didn't have full Board and PSNC elected to delay the hearing. We did send notices out
39 to every property owner reminding them of this new hearing date and time so they could be present. I'm
40 on page 276 now, the specific standards. I've already alluded to the fact they have a site plan. Sheets
41 2, 3 sheets 37, 36 provide the necessary information as required by the Ordinance. I'll take this
42 opportunity to remind the Board we've had a suggestion from an impacted property owner that any
43 motion to approve not include the disputed regulator station whatever it's called on Mr. Zaragoza's
44 property. That it be handled at a future date and time. The applicant, and I'm on page 277, has argued
45 that both within their narrative and their testimony here this evening that this project complies with
46 applicable state and federal regulations including Title 49 Federal Regulation Part 192 which prescribes
47 to minimum safety requirements for pipeline facilities. They have provided the narrative information and
48 testimony this evening about the public convenience. I've already covered the liability issue. You have
49 beginning on page 278, responses to their compliance to Section 5.3.2.b of the UDO. We have a couple
50 of conditions that have been recommended that I am going to go over a little more detail in a moment.
51 Beginning on page 280, we have the findings for Section 5.3.2.a.2.a which is the use will maintain or
52 promote the public health, safety and general welfare. The use will maintain or enhance the value of
53 contiguous property unless the use is a public necessity. Finally, location and character of the use, if
54 developed according to the plan submitted, will be in harmony with the area in which it is to be located
55 and the use is in compliance with the plan for the physical development of the County as embodied in

1 these regulations or in the Comprehensive Plan. Please remember we do not make recommendations
2 on those standards you have to make findings based on the evidence entered into the record. We've
3 provided you with synopsis of what was already in the record specifically the application. We have
4 provided you a list of nine conditions if you see fit to approve this project. Those conditions are as
5 follows. The applicant shall abide by all conditions/operational parameters as denoted on the approved
6 site plan. The second condition which I think is incredibly for those residents in the audience and it's
7 something we have been working on to clarify with the issuance of the Special Use Permit, especially in
8 this type of scenario, is that the granting of this permit shall in no way be construed as limiting a property
9 owner's ability to modify/expand permitted land use(s) on their property as it relates to Section 2.7.14 of
10 the UDO. As you all know, Special Use Permits, the only way you can quote/unquote modify or expand
11 a Special Use Permit is to go back through this very same process. It's not the County's intention to
12 require private property owners if they are doing work on their property especially one that is
13 encumbered by an SUP to have to go through this process. That is also something we have to clarify in
14 the UDO at a future point in time to ensure that we're not inadvertently creating a burden or a hazard on
15 a private property owner that may be subject to certain provisions of a SUP. The third we recommend is
16 the applicant shall apply for, and receive, all required State and Federal permits authorizing the
17 commencement of land disturbing activities. The applicant shall provide copies of said
18 permits/authorizations to the County. This shall include any NC Department of Transportation
19 encroachment agreements required for the project. Obviously the applicant this evening has submitted
20 which we're calling applicant exhibit 2. A list of permit authorizations from various state and federal
21 entities for this project. There are a few outstanding. They have had no objection to submitting all of the
22 supplied permits as we have requested. The fourth condition the applicant shall provide copies of all
23 executed easement agreement(s) for all impacted properties. Again, as we've already told the Board this
24 evening the applicant submitted what we are calling applicant exhibit 1, various easement agreements.
25 The fifth condition is the County Attorney's office shall review all easement agreements to ensure
26 appropriate language is present allowing for emergency vehicle access. The sixth condition is the
27 applicant shall coordinate, with the Orange County Fire Marshal, the scheduling of a meeting to
28 review/develop an emergency action plan in the event of a gas line leak/rupture. Condition seven at the
29 commencement of earth disturbing activity, the applicant shall coordinate with the Planning Department
30 and DEAPR staff to ensure the preservation and protection of identified historic/cultural resources in the
31 area of the pipeline project. Eight and nine are actually the conditions inherent in the UDO and what
32 they stipulated is that the Special Use Permit will automatically expire within 12 months from the date of if
33 the use has not commenced or construction has not commenced and if any condition of this Special Use
34 Permit shall be held invalid or void, then this Special Use Permit shall be void. I'll be happy to answer
35 any question you have at this time.

36
37 Larry Wright: Any questions for Mr. Harvey?

38
39 Karen Barrows: The only thing I wanted to ask Mike is usually when the use will maintain or enhance
40 value of contiguous property, we see an appraiser come. They felt they didn't need to do that because
41 of the public necessity?

42
43 Michael Harvey: That's their argument, yes madam.

44
45 Larry Wright: Any other questions for Mr. Harvey? Hearing none, I would like to close the public hearing
46 and we will start our deliberations. I would like to ask the Board members to look at pages 272 to 274
47 and look through the Ordinance requirements of 2.2, 2.2.d, 2.7.3.b.1 through 11. This is looking at these
48 application components for Section 2.2 and 2.7.3 Class B do I have a motion from the Board.

49
50 David Blankfard: Do you want to have discussions first?

51
52 Larry Wright: I think that would be a good idea. Are there any discussions that the Board would like to
53 have?

54
55 Karen Barrows: On just these two pages?

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Larry Wright: Do you want them in general?

David Blankfard: Yes, I was just asking if anybody else.

Larry Wright: I think that's a good idea. I think that's a very good idea.

Jeff Schmitt: How did this come to us?

Larry Wright: Oh I'd like to know that too. We've had a couple like this.

Jeff Schmitt: I'm not quite sure that I understand what it is that we can rule on here that is not to superseded by federal and or state regulations that talk about the permitting, the easement, the construction, the safety, all of those aspects in regards to, because the County cannot supersede with what is it wants to do in any of those regulations.

Larry Wright: It's my understanding that the County is a stepwise process. The County with this applicant, they are going through a stepwise process where it's really going, we're just hardly nobody. They are going to say, ok, the County said this and then they go to the state, and that's where the tire meets the pavement.

Mark Micol: I think these known conditions are relevant. I think that this adds value to the process. The nine conditions that staff has put together for us.

Jeff Schmitt: On the bottom, yes. I have sense of sympathy for the people who have come here tonight and have testified. They have come looking to us for answers which we couldn't provide.

Larry Wright: We can't

Jeff Schmitt: And I'm sorry about that and on behalf of my colleagues, I apologize but that's not our responsibility and or our job in this context. But I feel sorry for those folks because at some point their questions should be answered either by the applicant and or through the state public service commission. There ought to be a venue where they can find answers to their questions someplace and it's a shame that it maybe not us. That needs to be a part of the record. In future things like this Larry, I think there needs to be the attorney from the County needs to make sure that there is a role that we play in doing this that is relevant and not just rubber stamping what some state and or federal thing because that's about all on some of these things we can do.

Larry Wright: I know, I agree that most of this is the state and the federal level.

Jeff Schmitt: As Mark said, there's some criteria here that the County has proposed and the school bus stop and all those things which are very appropriate things to take into consideration.

Larry Wright: Even if we overstep our bounds, it is going to be appealed to the superior court, but that's still more litigation.

Jeff Schmitt: I understand, I thought I had to say that for the record.

Larry Wright: All right so while we're talking about this and before we go through and itemize this are there any recommendations that we feel that we can make that we could add to those listed on page 283? While we're discussing and then we put could them through at the end and then we could go right through them.

Karen Barrows: I think we wanted to exclude the regulator station.

Larry Wright: If we are excluding that regulator station then we are approving this application as submitted. Am I understanding that correctly.

Mark Micol: I think we need to vote first and then address the then points.

Larry Wright: Ok, that sounds like a plan. Ok, we start again. Pages 272 to 274 of this packet. These are the Ordinance requirements on Section 2.2, 2.2.d, 2.7.3.b.1 through 11.

SECTION 2.2 AND 2.7.3 CLASS B SPECIAL USE PERMIT APPLICATION COMPONENTS ("Yes" indicates compliance; "No" indicates non-compliance)

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 2.2 The application for a Class B Special Use Permit shall be on forms provided by the Planning Department	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 2 of the abstract package contains a completed Orange County Class B Special Use Permit application for the project.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.2.4 (D) Applications must be accompanied by the fee amount that has been established by Board of County Commissioners. Application fees are nonrefundable.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Staff will stipulate the applicant submitted the required application fee for the permit application.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No			<input type="checkbox"/> Yes
2.7.3 (B) (1) A full and accurate description of the proposed use, including its location, appearance, and operational characteristics.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 2 of the abstract package contains a completed project narrative describing project. The site plan contains the other relevant information.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (2) The names and addresses of the owners of the property	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 2 of the abstract package contains information concerning the names and addresses of the applicant as well as the property owners where the pipeline shall be located.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

<p>2.7.3 (B) (3)</p> <p>Relevant information needed to show compliance with the general and specific standards governing the Special Use</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		<p>Attachment 2 of the abstract package contains various documents, including a site plan, containing the necessary information establishing compliance with the provisions of the Ordinance.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>2.7.3 (B) (4)</p> <p>Ten (10) copies of the site plan prepared by a registered N.C. land surveyor, architect, or engineer.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		<p>Attachment 2 of the abstract package contains the required site plan completed by D Squared Engineering LLC, Energy Management and Services Co, and PSNC (the applicant),</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>2.7.3 (B) (5)</p> <p>If the application involves a Preliminary Subdivision Plat, 26 copies of the Plat prepared in accordance with Section 7.14 shall be provided.</p>	<p><input checked="" type="checkbox"/> Not Applicable</p>	<p>Not</p>	<p>The project does not involve or propose a subdivision. As a result no preliminary plat is required.</p>	<p><input type="checkbox"/> Applicable</p>	<p>Not</p>
<p><u>Ordinance Requirements</u></p>	<p>PLANNING STAFF RECOMMENDED FINDINGS</p>		<p>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</p>	<p>BOA FINDINGS</p>	
<p>2.7.3 (B) (6)</p> <p>A list of all parcels located within 500 feet of the subject parcel and the name and address of each property owner, as currently listed in the Orange County tax records.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		<p>Attachments 2 and 3 of the abstract package contains a complete list of property owners as maintained by Orange County Land Records.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>2.7.3 (B) (7)</p> <p>Elevations of all structures proposed to be used in the development.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		<p>Attachment 2 of the abstract package contains the required elevations, specifically photos of the existing structure(s).</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>

2.7.3 (B) (8) Ten (10) copies of an Environmental Assessment or Environmental Impact Statement as required by Section 6.16 of the UDO	<input checked="" type="checkbox"/> Applicable	<input type="checkbox"/> Not	Permitting for the project shall be completed through the State	<input type="checkbox"/> Applicable	<input type="checkbox"/> Not
2.7.3 (B) (9) Method of disposal of trees, limbs, stumps and construction debris associated with the permitted activity, which shall be by some method other than open burning.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 2 of the abstract, as well as the submitted site plan, contains sufficient detail denoting construction or land clearing debris generated on-site will be disposed of in accordance with the County's Solid Waste Management Ordinance.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (10) Statement from the applicant indicating the anticipated development schedule for the build-out of the project.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 2 of the abstract package contains the required information.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.3 (B) (11) Statement from the applicant in justification of any request for vesting for a period of more than two years (five years maximum)	<input checked="" type="checkbox"/> Not Applicable		The applicant is not requesting vesting of the project.	<input type="checkbox"/> Not Applicable	

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MOTION made by David Blankfard of agreement with staff's finding for pages 272 through 274. Second by Karen Barrows
VOTE Unanimous

Larry Wright: Page 275 these are Ordinance requirements Section 2.7.5 and this was special notification recommendations. Do we feel this meet's staff's requirements? Do we have a motion.

SECTION 2.7.5 CLASS A SPECIAL NOTIFICATION REQUIREMENTS ("Yes" indicates compliance; "No" indicates non-compliance)

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 2.7.5 (a) The Planning Director shall give public notice of the date, time and place of the public hearing	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 3 of the abstract package as produced by staff provides the necessary detail outlining compliance with this requirement.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.5 (b)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	The legal ad for the August 11, 2014 BOA	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Such notice shall be published in a newspaper of general circulation in Orange County once a week for two successive weeks, with the first notice to be published not less than ten days not more than we days prior to the date of the hearing.				public hearing was published in the News of Orange and the Chapel Hill Herald consistent with the requirements of the UDO.		
2.7.5 (c) The Planning Director shall post on the affected property a notice of the public hearing at least ten days prior to the date of said hearing.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		Attachment 3 of the abstract package as produced by staff provides the necessary detail outlining compliance with this requirement.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2.7.5 (d) Written notice shall be sent by certified mail to all adjacent property owners not less than 15 days before the hearing date. Adjacent property owners are those whose property lies within five hundred feet of the affected property and whose manes and addresses are currently listed in the Orange County tax records.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		Attachment 3 of the abstract package as produced by staff provides the necessary detail outlining compliance with this requirement.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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MOTION by Jeff Schmitt of agreement with staff's recommendations from 2.7.5 a through d. Seconded by David Blankfard.

VOTE Unanimous

Larry Wright: Ok so we have now Section 5.9.5 Standards for Electric, Gas, and Liquid Fuel Transmission Lines and this is on pages 276 and 277. Ordinance requirements 1.a through e and 2.a through c.

SECTION 5.9.5 – STANDARDS FOR ELECTRIC, GAS, AND LIQUID FUEL TRANSMISSION LINES
("Yes" indicates compliance; "No" indicates non-compliance)

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
(1) Submittal Requirements: In addition to the information required by Section 2.7, the following shall be submitted as part of the application: (a) A site plan showing the following	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 2 contains the application package and site plan. Sheet(s) 2 through 3 and 37 through 46 of the site plan contains a project description and the construction sequence, erosion/sedimentation control management,	<input type="checkbox"/> Yes	<input type="checkbox"/> No

<p>(i) All existing and proposed structures within the site of the line, (ii) All existing structures within 50 feet of the boundaries of the site, and (iii) Officially designated floodways and floodplains.</p> <p>(b) A plan of erosion and sediment controls for the site.</p> <p>(c) Typical cross sections for the installation showing elevation of all structures and existing and proposed topography.</p> <p>(d) Plans and elevations of all proposed structures and descriptions of the color and nature of all exterior materials.</p> <p>(e) Certification by the applicant that it is a public utility and a statement that the proposed installation is necessary to accomplish its public utility function and that public convenience and necessity will be served by the proposed installation.</p>			<p>and various notes detailing the parameters of the project.</p> <p>The applicant is required to obtain a State issued erosion control/stormwater management permit prior to the commencement of earth disturbing activities.</p> <p>The applicant's narrative contains information related to the compliance with subsection (e) as detailed herein,</p>		
<p>Ordinance Requirements</p>	<p>PLANNING STAFF RECOMMENDED FINDINGS</p>		<p>EVIDENCE SUBMITTED TO SUPPORT FINDINGS</p>	<p>BOA FINDINGS</p>	
<p>(2) Standards of Evaluation</p>					
<p>(a) Adequate provision has been made to protect adjacent property from the dangers of explosion, rupture, collapse, fire or other menaces to public health and safety.</p>	<p><input checked="" type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>	<p>Attachment 2 contains the applicant's narrative which indicates the proposed pipeline is designed, and shall be constructed consistent with, applicable State and Federal regulations including Title 49 Code of Federal Regulation Part 192, which prescribes minimum safety requirements for pipeline</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>

				facilities.		
(b)	The public convenience and necessity shall be served by this proposed installation, if installed as proposed.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 2 contains the applicant's narrative which indicates the project is necessary to allow PSNC to provide additional gas supply to existing gas distribution systems.	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(c)	The applicant shall submit proof of liability insurance covering bodily injury and property damage demonstrating a minimum coverage limit of \$500,000.00 per occurrence.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Attachment 2 contains proof of liability insurance coverage in the amount of \$1,000,000.00 per occurrence.	<input type="checkbox"/> Yes	<input type="checkbox"/> No

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MOTION by Mark Micol to approve planning staff's recommendation for the items listed on page 276 Section 5.9.5. Ordinance requirement 1.a through e and 2.a through c. Seconded by David Blankford.
VOTE Unanimous
 Larry Wright: Now we're on page 278 of this package. These are the Ordinance requirements for 5.3.2.b.1 through 3 and we can take this independently. Do I have a motion?

1 **SECTION 5.3.2 (B) – SPECIFIC STANDARDS – SPECIAL USE PERMITS ("Yes" indicates**
 2 **compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<u>X</u> Yes	___ No		___ Yes	___ No
Section 5.3.2 (B) (1) Method and adequacy of provision for sewage disposal facilities, solid waste and water service.	<u>X</u> Yes	___ No	Staff's abstract provides responses to this question. Both Environmental Health and Solid Waste have indicated they have no concerns. Memorandum from each Department shall be provided at the August 11, 2014 public hearing.	___ Yes	___ No
Section 5.3.2 (B) (2) Method and adequacy of police, fire and rescue squad protection.	<u>X</u> Yes	___ No	Staff's abstract provides responses to this question. The Fire Marshal would like to ensure there is appropriate language within existing/new easement documents providing for emergency personal access to the pipeline. A recommended condition of approval if that the County Attorney's office review easement agreements to ensure appropriate language is present. The Fire Marshal has also requested the applicant schedule a meeting with emergency service personnel and local volunteer fire departments to review/develop an emergency action plan in the event of a gas line leak/rupture.	___ Yes	___ No

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1 **SECTION 5.3.2 (B) CONTINUED ("Yes" indicates compliance; "No" indicates non-compliance)**

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No		<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section 5.3.2 (B) (3) Method and adequacy of vehicle access to the site and traffic conditions around the site.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	The submitted site plan shows access points. There will not be an appreciable traffic increase in the area associated with the development of the pipeline. PSNC will only be accessing the easement areas periodically for maintenance/monitoring purposes.	<input type="checkbox"/>	<input type="checkbox"/>

2
3 **MOTION** by Karen Barrows to accept the standards and staff's recommendation for the items listed on
4 page 278 and 279. Seconded by David Blankfard.

5 **VOTE** Unanimous

6
7 Larry Wright: Now we go through the general standards and this is Section 5.3.2.a and this is a and b.

8
9 **SECTION 5.3.2 (A) Special Uses – General Standards ("Yes" indicates compliance; "No" indicates non-compliance)**

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<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	<input type="checkbox"/> Will	<input type="checkbox"/> Will Not		<input type="checkbox"/> Will	<input type="checkbox"/> Will Not
In accordance with Section 5.3.2 (A) (2), the Board of Adjustment shall also consider the following general conditions before the application for a Special Use can be approved:	NOTE: Planning Staff does not provide a recommendation on these items as the Board is expected to act based on the sworn testimony provided at the hearing.				
Section 5.3.2 (A) (2) (a) The use will maintain or promote the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.	<input type="checkbox"/>	<input type="checkbox"/>	Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement: • The application package and project narrative contained within Attachment 2 of the abstract.	<input type="checkbox"/>	<input type="checkbox"/>

				<ul style="list-style-type: none"> • The submitted site plan denoting the projects compliance with the UDO. • The applicant's assertion within their project narrative that the installation of the pipeline will be in compliance with applicable State and Federal regulations. • Testimony from the public hearing. 			
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MOTION by Jeff Schmitt to approve Section 5.3.2.a to small a as required by the UDO, evidence submitted by the Public Service North Carolina the subject project will be constructed consistent with federal and state regulation including Title 49 code of the federal regulation in part 190 thereby achieving the necessary safety requirements for pipeline facilities. In addition the County Health Department and Erosion Control and Stormwater Engineering, Emergency Services have reviewed the application and find it will not be injurious to the public health and or safety and is in compliance with affable state and federal regulations. It is therefore the finding of the Board that the use will maintain or promote the public health, safety and general welfare if located where proposed and developed and operated according to the plan as submitted. Seconded by David Blankfard.

VOTE: Unanimous

Larry Wright: So we are left with Section 5.3.2.a.2.b. on page 281.

SECTION 5.3.2 (A) Special Uses – General Standards ("Yes" indicates compliance; "No" indicates non-compliance)

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	__Will	_Will Not		__Will	_Will Not
Section 5.3.2 (A) (2) (b) The use will maintain or enhance the value of contiguous property (unless the use is a public necessity, in which case the use need not maintain or enhance the value of contiguous property).	__Will	_Will Not	Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement: <ul style="list-style-type: none"> • The application package and project narrative contained within Attachment 2 of the abstract, which argues that project is a public necessity and they are not required to demonstrate the use will maintain or enhance the value of contiguous property. 	__Will	_Will Not

				STAFF COMMENT: The Board will need to determine if there is sufficient evidence proving this point and then vote on a motion indicating the use is, in fact, a public necessity.			
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2 **MOTION** by David Blankfard that the use will maintain or promote the public health and safety, general
3 welfare if located where proposed if developed and operated according to the plan as submitted. Based
4 on the fact that the installation of the pipeline is a public necessity as stated in North Carolina Statute
5 62.6 and therefore the use does not need to maintain or enhance the value of contiguous property and
6 also that the path of the pipeline, the majority of it, will be in existing easement that currently holds a
7 pipeline that has been in effect since 1952. Seconded by Jeff Schmitt.

8 **VOTE:** Unanimous

9
10 Karen Barrows: I would just like to say unless this Board, a public necessity, I would vote no. Because
11 we've had enough testimony that it has tended to be injurious.

12
13 Jeff Schmitt: I agree.

14
15 Larry Wright: Ok, so we're on page 282. Ordinance requirements for Section 5.3.2.a.2.c. Do I have a
16 motion?
17

<u>Ordinance Requirements</u>	PLANNING STAFF RECOMMENDED FINDINGS		EVIDENCE SUBMITTED TO SUPPORT FINDINGS	BOA FINDINGS	
	___ Is	___ Is Not		___ Is	___ Is Not
Section 5.3.2 (A) (2) (c) The location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and the use is in compliance with the plan for the physical development of the County as embodied in these regulations or in the Comprehensive Plan, or portion thereof, adopted by the Board of County Commissioners.			Staff will remind the Board there is the following information available, as submitted by the applicant, related to addressing this requirement: <ul style="list-style-type: none"> • The application package and project narrative contained within Attachment 2 of the abstract. • The submitted site plan denoting the projects compliance with the UDO. • Staff's abstract. • Testimony from the public hearing. 		

18
19 **MOTION** by Mark Micol that the location character of the use if developed according to the plan
20 submitted will be in harmony with the area in which it is to be located and use is in compliance with the
21 plan for the fiscal development of the County as embodied in these regulations or in the Comprehensive

1 Plan or portion thereof adopted by the Board of County Commissioners based on testimony by Mr.
2 Harvey that the gas line is a permitted use and that the design of the gas transmission line meets or
3 exceeds federal, state and local environmental permitting requirements. Seconded by Jeff Schmitt.

4 **VOTE:** Unanimous

5
6 Larry Wright: Now we are on to staff's recommendations on page 283.

7
8 Jeff Schmitt: The question I guess has been raised about this junction box. Is the junction box the only.
9 Is it the only item within the context of this, how many miles, 15 or whatever it is.

10
11 Larry Wright: 16 miles

12
13 Jeff Schmitt: 16 miles that is not appropriately delineated on this application. I can't answer that. I have
14 no idea.

15
16 Karen Barrows: I think Mr. Hancock feels like his property may not be listed. So we were thinking of
17 adding that as another condition. Excluding the valve station and any other property that is not listed.

18
19 David Blankfard: I don't think we need to put that as a, the property as a condition.

20
21 Larry Wright: All we need to do is

22
23 David Blankfard: If it's not on here, it's not on there.

24
25 Jeff Schmitt: Is that the only one is my question are there other a second junction box there might be
26 some property missing?

27
28 David Blankfard: She was saying about missing property owners.

29
30 Jeff Schmitt: That's a separate issue.

31
32 David Blankfard: I don't know if there is more than one valve station.

33
34 Larry Wright: If we vote on this application, as presented to us, then Mr. Harvey said that they would
35 have to come back.

36
37 Mark Micol: That's a modification.

38
39 Larry Wright: I think if we vote on this application.

40
41 Jeff Schmitt: I hear what you're saying.

42
43 Larry Wright: I would like to ask the Board wasn't there another recommendation that we were going to
44 make that came from testimony?

45
46 Jeff Schmitt: One of the members of the audience brought up the fact that the expanded easement will
47 now encompass a school bus waiting area. I don't know what the right phrase is.

48
49 Larry Wright: Right, then I asked Mr. Rhoads if indeed and he said that he would have to do that.
50 Anything that would be within the easement of the highway has to be cleared with DOT and a school bus
51 stop he mentioned specifically.

52
53 Jeff Schmitt: So the presumption is that DOT would of themselves move the school bus stop.

54
55 Larry Wright: Or else he would, he would have to come to some agreement with DOT.

1
2 David Blankfard: So when they get their permit they would say ok, you're putting that easement here, we
3 have to move certain things to make the easement work as part of the permitting process.
4

5 Jeff Schmitt: So in other words, we don't add that.
6

7 Larry Wright: That's not us. No.
8

9 David Blankfard: We're already telling them they have to get the relative permits. I do think we need to
10 add then the valve stations that any valve stations would be considered a modification to this SUP.
11 Because PSNC is arguing that the valve stations are part and parcel of doing the pipeline. That's why
12 they
13

14 Larry Wright: I think you're going to have to be careful here though because we don't know. Look at all
15 this, are there valve stations in here. I haven't had time to look at every one of these.
16

17 David Blankfard: There's not one, no, it's just lines.
18

19 Larry Wright: Because if there are, and it's part of the packet.
20

21 David Blankfard: It's not they're not in there. I didn't see any.
22

23 Larry Wright: I would like to just specifically say that we are, make the statement, we are approving or
24 not approving this application as presented to us and then that would clear any, it there's a valve station
25 buried in there some place.
26

27 Mark Micol: Then Mr. Harvey's office will handle that.
28

29 Larry Wright: That's right.
30

31 David Blankfard: Would associated buffers and
32

33 Larry Wright: Yes, absolutely.
34

35 David Blankfard: I mean, a 100 foot by 100 foot valve station is not.
36

37 Larry Wright: It's a footprint
38

39 David Blankfard: That is huge, that's not a normal use of the pipeline.
40

41 Larry Wright: I know, but then we have. Mr. Zaragoza wanted to know about the permit ability of this
42 and that would
43

44 David Blankfard: That's outside of our purview that's
45

46 Larry Wright: So, let me ask you this is it outside our purview when it's Orange County Ordinance and
47

48 David Blankfard: He would get compensated for whatever encumbrances that would imply. That's up to
49 him and PSNC to negotiate and for him to get compensated.
50

51 Karen Barrows: I think, Larry, we have approved SUPs before and added in an extra condition based on
52 discussion and I think Mr. Harvey's point to Mr. Zaragoza was to go ahead and exclude the valve station
53 from this permit since it wasn't, there's no plan for it in here. The way I understood it.
54

1 Jeff Schmitt: I think the question still sits here relative to the reconditioning of the natural mode. There
2 needs to be some comment made about the landscaping. That would surround any, I don't want to just
3 say valve station because there might be something else.
4
5 Karen Barrows: But if he had to come back for modification for that, that would be part of that
6 application.
7
8 Jeff Schmitt: I think that's a good point Karen. So we don't do anything.
9
10 Larry Wright: Mr. Zaragoza had made a point that I thought was and that was the fact that when they
11 take the soil out.
12
13 Jeff Schmitt: Put the topsoil some place so it doesn't get buried.
14
15 Larry Wright: Yes.
16
17 David Blankfard: But that's actually in the easement itself, will put it back into its current state. When
18 you read the 1952 easement, it's covered in there.
19
20 Larry Wright: It is?
21
22 David Blankfard: We can go back and look at it but I think that's addressed. I was reading that. Will not
23 interfere with the cultivation of land also, fences, growing crops, timber which may arise from land
24 construction, removing changing ...
25
26 Jeff Schmitt: So that has to fall into growing crops...
27
28 David Blankfard: Yes and I guess if they do damage then they have to compensate.
29
30 Larry Wright: That's the trees
31
32 Jeff Schmitt: The topsoil
33
34 David Blankfard: I guess if they do disturb and if they don't put it back and mitigate the damage then
35 they have to compensate. They have a choice, they can put back to its original state or they can
36 compensate him for
37
38 Larry Wright: So, that's his trees and his driveway access
39
40 Jeff Schmitt: And his 6 inches of topsoil or whatever we have around here.
41
42 Larry Wright: Ok, so where are we on this?
43
44 Karen Barrows: I thought we going to say we would approve staff's 9 recommendations and add one
45 that would exclude the valve station because it's not listed.
46
47 Jeff Schmitt: I thought we had come to the conclusion that we didn't need to say with the valve station
48 because that is a modification that they come back. Because we don't even know.
49
50 Karen Barrows: It wouldn't be if we don't mention it.
51
52 Jeff Schmitt: Yes, but we don't know there's a valve station, what's been submitted to us says we don't
53 know that there's a valve station.
54
55 Karen Barrows: Oh, I see what you're saying.

1
2 Larry Wright: Yes, and so if they want to put a valve station in there then it's a modification because
3 we're going to be approving this application as presented.
4

5 David Blankford: Can we get the attorney's advice?
6

7 James Bryan: Its unnecessary to add that restriction. You could add something if you want but really in
8 all instances, you are approving what is asked for. If you have an SUP for schools and somebody asks
9 for a school with no bathrooms and they give you a site plan with no bathrooms and you approve it,
10 you've approved it with no bathrooms and if they go the next week and they can't open up school
11 because there are no bathrooms that's on them. So, what you have is everything in front of you and
12 there may be determinations left later on about what this includes and doesn't include based upon the
13 language of the UDO and Mr. Harvey's interpretation not that interpretation may be right may be wrong
14 may be good may be bad may be appealed if it is appealed it goes back to this Board and this Board will
15 decide it then. But it's not this Board's prerogative to make determinations or interpretations of policy.
16

17 Larry Wright: Ok, are there any we should have addressed.
18

19 James Bryan: You're going to hate my advice, but your hands are tied more than you realize. Any
20 recommendation has to be tied to a particular standard that you believe would not be met say for this
21 recommendation. Your hands are very very tied.
22

23 Larry Wright: Ok, on that advice, any more discussion on recommendations 1 through 9? Do we have to
24 say that we are approving this application as presented to us?
25

26 Mark Micol: No, I think that's implied.
27

28 James Bryan: You can if you want to be you know, but.
29

30 Jeff Schmitt: Ok, my motion is I guess in addition to the requirements of Section 5.3.2.a. subsection 2 it
31 is the recommendation of the Board that items number 1 through 9 as recommended by staff be added
32 to the SUP for compliance by the applicant.
33

34 **Staff has not received any information that would establish grounds for making a negative**
35 **finding on the general standards as detailed above. These standards include maintaining or**
36 **promoting the public health, safety, and general welfare, maintaining or enhancing the value of**
37 **contiguous property, the use being in harmony with the area in which it is to be located, and the**
38 **use being in compliance with the general plan for the physical development of the County.**
39

40 **Staff has reviewed the application, the site plan, and all supporting documentation and has found**
41 **that the applicant complies with the specific standards and required regulations as outlined**
42 **within the UDO**
43

44 **Provided the Board of Adjustment finds in the affirmative on the specific and general standards,**
45 **the Board could make a positive finding on this application. In the event that the Board makes a**
46 **recommendation to issue the permit, staff recommends the attachment of the following**
47 **conditions:**
48

49 **RECOMMENDATION**
50

- 51 **1. The applicant shall abide by all conditions/operational parameters as denoted on the**
52 **approved site plan.**
- 53 **2. The granting of this permit shall in no way be construed as limiting a property owner's**
54 **ability to modify/expand permitted land use(s) on their property as it relates to Section**
55 **2.7.14 of the UDO.**

- 1 **3.** The applicant shall apply for, and receive, all required State and Federal permits
2 authorizing the commencement of land disturbing activities. The applicant shall provide
3 copies of said permits/authorizations to the County. This shall include any NC
4 Department of Transportation encroachment agreements required for the project.
- 5 **4.** The applicant shall provide copies of all executed easement agreement(s) for all
6 impacted properties.
- 7 **5.** The County Attorney's office shall review all easement agreements to ensure appropriate
8 language is present allowing for emergency vehicle access.
- 9 **6.** The applicant shall coordinate, with the Orange County Fire Marshal, the scheduling of a
10 meeting to review/develop an emergency action plan in the event of a gas line
11 leak/rupture.
- 12 **7.** At the commencement of earth disturbing activity, the applicant shall coordinate with the
13 Planning Department and DEAPR staff to ensure the preservation and protection of
14 identified historic/cultural resources in the area of the pipeline project.
- 15 **8.** The Special Use Permit will automatically expire within 12 months from the date of
16 approval if the use has not commenced or construction has not commenced or
17 proceeded unless a timely application for extension of this time limit is approved by the
18 Board of Adjustment.
- 19 **9.** If any condition of this Special Use Permit shall be held invalid or void, then this Special
20 Use Permit shall be void in its entirety and of no effect.

21
22 **MOTION:** by Jeff Schmitt that in addition to the requirements of Section 5.3.2.a. subsection 2 it is the
23 recommendation of the Board that items number 1 through 9 as recommended by staff be added to the
24 SUP for compliance by the applicant. Seconded by David Blankfard.

25 **VOTE:** Unanimous

26
27 Larry Wright: This completes this application. Yes, our hands were tied. Thank you very much, I
28 appreciate the audience we understand your concerns. This is just the way we have to do it.

29
30 James Bryan: You should probably have one last vote to approve the permit.

31
32 Larry Wright: Ok, one last vote to approve the permit.

33
34 James Bryan: I'm recommending that you have another vote to approve the permit.

35
36 Larry Wright: Ok.

37
38 **MOTION:** by David Blankfard to approve the permit. Seconded by Mark Micol.

39 **VOTE:** Unanimous

40
41 James Bryan: Mr. Chairman, I apologize, it is very very late, I've got some forms that you can look at
42 that would help the future processes for both this Board and the public but more importantly the
43 neighbors to understand what this process is. I've worked in different counties, this is the best one, if you
44 can believe it. It really is but it's a very difficult process. I serve this Board not the staff, not the
45 Commissioners, not the public, in this I serve this Board so it's very hard but if you'll want to have maybe
46 a training session or something like that.

47
48 Jeff Schmitt: I think this ought to be done, documents that are provided in the newspaper as the
49 notification that we have, there needs to be some readable comment to the general public about what
50 can be brought in front of this Board and what this Board can and cannot do at some point in time which I

1 don't know if people read it but at least we ought to take the effort to try to figure out how to do that.

2

3 Larry Wright: This is one of the reasons we did modify the public charge.

4

5 **MOTION:** by Mark Micol to adjourn. Seconded by Jeff Schmitt.

6 **VOTE:** Unanimous

7

8

9 Meeting adjourned at 11:50 p.m.