PETITION TO AMEND
THE FULTON COUNTY ZONING RESOLUTION

PETITION NO: 98Z-126 AMD

DEPARTMENT OF ENVIRONMENT AND COMMUNITY DEVELOPMENT

RECOMMENDATION: APPROVAL OF PARTS 1 & 2
WITHDRAWAL OF PART 3

APPLICANT'S INTENT

PART 1
To amend the Fulton County Zoning Resolution by adding to Article 34, DEVELOPMENT REGULATIONS a section entitled 34.5.10 PIPELINE EASEMENT SETBACK to protect the integrity of the pipeline and enhance public safety.

PART 2
To amend the Fulton County Zoning Resolution by adding to Article 3, DEFINITIONS to support the interpretation of the pipeline easement standards.

PART 3
Amend Article 34, DEVELOPMENT REGULATIONS, Section 34.4 PERMIT AND SIGN-OFF REQUIREMENTS by adding to Paragraph E., a standard Number 10 regarding a setback for water intake and discharge points.

Planning Commission South - January 19, 1999   RECOMMENDATION: DEFERRAL
Planning Commission North - February 16, 1999   RECOMMENDATION: APPROVAL
Board of Commissioners - June 2, 1999

98Z-126.AMD
ARTICLE 34

05/25/99
Amendment Intent

WHEREAS, the Board of Commissioners is charged with protecting the citizens of Fulton County from environmental hazards by implementing strategies to insure that no population of people be forced to bear unnecessary environmental impacts or environmental hazards; and

WHEREAS, the Department of Environment and Community Development, Office of Environmental Affairs is proposing legislation specifically to protect Fulton County citizens and property from underground petroleum pipeline operations and leakage; and

WHEREAS, the leading cause of pipeline accidents is excavation damage from development; and

WHEREAS, existing pipeline easements have proven to be insufficient to secure the safety of property and/or people due to pipeline breaks, spills, fires, and explosions reported in many jurisdictions across the country; and

WHEREAS, the National Transportation Safety Board requested examination of the adequacy of public policies for land use near pipelines and the Transportation Research Board (TRB) of the National Research Council funded a study to examine public and private policies and practices to enhance public safety near transmission pipelines; and

WHEREAS, based on the results of the NRC study, Department of Environment and Community Development has created an Ordinance, that includes policies and practices to enhance public safety near pipelines and recommendations for improving these practices.
0. Commissioners Boxill and Darnell did not vote

99-1029 RATIFICATION OF MINUTES - REGULAR MEETING VERBATIM
MINUTES, JULY 7, 1999; RECESS MEETING POST AGENDA
MINUTES, JULY 21, 1999; SPECIAL CALL MEETING
MINUTES, JULY 26, 1999 ( RATIFIED )

Commissioner Lowe - "So moved."
Commissioner Fulton - "Second."
Chairman Kenn - "Call the question. Approved."

Commissioner Lowe made the motion to ratify the minutes,
which was seconded by Commissioner Fulton and carried by a
vote of 4-0-1. Vice Chairman Hightower, Commissioners
Fulton, Lowe, and Chairman Kenn voted "yes." Commissioner
Webster "abstained." Commissioners Boxill and Darnell did
not vote.

99-1030 PRESENTATION OF CERTIFICATES, PROCLAMATIONS, AND
RESOLUTIONS (PRESENTED)

Proclamation recognizing Cindy Gentry, Gold Medal
winner of the 1999 Olympic World Clay Target
Championship (Lowe)

Presentation of Fulton County/City of Atlanta Byrne
Grant to initiate the Automated Case Disposition
between the City, County, and the GCIC (Hightower)

99-0758 PETITION #98Z 0126 FCN, PIPELINE EASEMENT SETBACK -
APPLICATION INITIATED BY THE BOARD OF COMMISSIONERS
OF FULTON COUNTY, SEEKS TO AMEND THE FULTON COUNTY
ZONING RESOLUTION (APPROVED)

Ms. Justine Boyd, Clerk to the Commission, presented the
following letter from E. F. Morey, Chairman, Fulton County
Planning Commission:
PETITION TO AMEND
THE FULTON COUNTY ZONING RESOLUTION

PETITION NO: 98Z-126 AMD

DEPARTMENT OF ENVIRONMENT AND COMMUNITY DEVELOPMENT

RECOMMENDATION: APPROVAL OF PARTS 1 & 2
WITHDRAWAL OF PART 3

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Planning Commission South - January 19, 1999 RECOMMENDATION: DEFERRAL
Planning Commission North - February 16, 1999 RECOMMENDATION: APPROVAL
Board of Commissioners - June 2, 1999

98Z-126.AMD
ARTICLE 34

05/25/99

0758-01a.99

REGULAR MEETING, AUGUST 4, 1999

33
Amendment Intent

WHEREAS, the Board of Commissioners is charged with protecting the citizens of Fulton County from environmental hazards by implementing strategies to insure that no population of people be forced to bear unnecessary environmental impacts or environmental hazards; and

WHEREAS, the Department of Environment and Community Development, Office of Environmental Affairs is proposing legislation specifically to protect Fulton County citizens and property from underground petroleum pipeline operations and leakage; and

WHEREAS, the leading cause of pipeline accidents is excavation damage from development; and

WHEREAS, existing pipeline easements have proven to be insufficient to secure the safety of property and/or people due to pipeline breaks, spills, fires, and explosions reported in many jurisdictions across the country; and

WHEREAS, the National Transportation Safety Board requested examination of the adequacy of public policies for land use near pipelines and the Transportation Research Board (TRB) of the National Research Council funded a study to examine public and private policies and practices to enhance public safety near transmission pipelines; and

WHEREAS, based on the results of the NRC study, Department of Environment and Community Development has created an Ordinance, that includes policies and practices to enhance public safety near pipelines and recommendations for improving these practices.
Environment and Community Development recommendations: Approval of parts 1 & 2. Withdrawal part 3.

Customary letters and findings are filed in the Clerk's Office as part of this petition.

Alice Wakefield, Assistant Director, Environment and Community Development - "This is a petition to amend the Fulton County Zoning Resolution. There are three parts. Part one is an amendment to add to Article 34, Development Regulations, a section entitled Building Setback from Pipeline Easement. Part two is an amendment to Article 3, Definitions, to add additional definition to support the interpretation of the pipeline building setback standards. And part three is an amendment to Article 34, Development and Regulations, to add language regarding permit and sign-off requirements. The recommendation of Staff and the Planning Commission is approval of parts one and two and withdrawal of part three. This matter was last before the Board on July 7, at which time a 30-day deferral was granted."

Chairman Kenn - "Nancy, could you give us an explanation because I think that there might have been some confusion on exactly the intent of this matter and, because of that confusion, I think that there's been some additional language that's been added to clear up some of the discrepancies. Could you elaborate?"

Nancy Leathers, Director, Environment and Community Development - "Yes, Mr. Chairman. This is intended to be a principal building setback proposal, much like you do in any zoning district, to provide for public safety. As I have indicated, the purpose of the setback is to provide a level of security for the construction of homes and other buildings in areas which are adjacent to a pipeline. Because we do not have the specific location of the pipeline within the easements, and have been unable to obtain that information, it's just not available. This setback is provided. And Dr. Fason can provide any supporting information on the kinds of accidents that happen. But this is intended to be a public safety issue. This setback is similar to that which you have already in your zoning resolution on a number of zoning districts, including the NUP district, where it has a 40-foot principal building setback. Based on the comments that were made in the last Public Hearing, we have made a revision to provide for an administrative variance for those properties where an existing home exists and where there is a request for a variance in order for them to reconstruct that
property. We believe that we have the ability, under those circumstances, to determine the location, at an individual location of the pipeline, and to assure public safety and provide for the viability of the existing lot. Therefore, we're before you again asking for approval.”

**Chairman Kenn** - “So in the case of an existing homeowner, if the scenario played out where that home burned down, what would be their procedure?”

**Ms. Leathers** - “They would apply to us for a variance, in order to reconstruct their home, at which point we would work with them to locate the specific pipeline in that easement, and to ensure that there was a safe location on their property. And then we would be able to go ahead administratively and approve a variance on the property. The intent is to provide for safety while also ensuring that they do have the ability to use their property.”

**Chairman Kenn** - “But if it was concluded that they wanted to rebuild on their existing footprint, and it was found that the existing footprint was within the setback, what would transpire?”

**Ms. Leathers** - “Then we would be able to determine that the public safety had been protected. We would assure that and then we could approve the variance administratively and it would allow them to get a new building permit.”

**Commissioner Webster** - “Mr. Chairman, after you.”

**Chairman Kenn** - “Go ahead.”

**Commissioner Webster** - “How do you ensure that the public safety requirements have been met if the house is to be rebuilt within the setback?”

**Ms. Leathers** - “We will have the opportunity on that individual lot to locate the pipeline itself. We will work with them to do that and locate that specific pipeline. The pipeline company doesn’t have that so we can’t get the location throughout, otherwise we would probably have come back to you with a setback from the pipeline itself, if we knew where it was in all cases within the easement, but we don’t. But what we would do is, for that individual property, we would then make a determination on its location and then we would ensure that at time of construction that we
provided appropriate fencing so that the operators of the equipment could not get into that area and potentially have an accident."

**Commissioner Webster** - "Thank you."

**Chairman Kenn** - "So the unlikely scenario, where the easement could be or actually the pipe was located under a former structure, is remote? And really, the reality of this is that in order for them to reconstruct their dwelling or whatever it is, that you want to have the ability to locate that pipeline to make sure that they don’t encroach upon it on their rebuild?"

**Ms. Leathers** - "That is correct."

**Chairman Kenn** - "Are there other questions or comments?"

**Commissioner Lowe** - "I’ve got some."

**Commissioner Darnell** - "Mr. Chairman?"

**Chairman Kenn** - "Go ahead, Emma."

**Commissioner Darnell** - "I move for approval."

**Vice Chairman Hightower** - "Second."

**Chairman Kenn** - "Tom."

**Commissioner Lowe** - "Mr. Chairman, I’m always troubled when it comes to items and we start trampling on our rights. I have always felt that one of the most important rights we have here in this country are property rights. I view this as a taking of personal property. Nancy has talked to me, and she and I are very close. I know that with this amendment and this change that it’s set up so that even though the law is unjust, that the mechanism is there to override. And I think the Staff that we have at this time understands that, having sat through the thing and developed this. Who’s to say who’s going to be on the Staff for Fulton County 10 years from now or two years from now? It may be people with an entirely different agenda and an entirely different feel towards the rights of the citizens to use their property. Restrictions on pipelines are controlled by the Federal government. These are transcontinental pipelines. The Federal government has a set of standards"
that they say you’ve got to abide by and that is imposed on pipeline companies. That states how much right-of-way they must have, how they are built; and all these myriad things that have to do with safety and the transportation of this fuel. When we come along and start changing the width of the right-of-way required, or the width of a setback, we’re, in effect, taking that land away, not from the pipelines. The pipelines are sitting back on this particular issue that’s before the Commission today, waxing eloquently, smiling, and saying they think it’s a great thing. It is a help to the pipelines and it’s a hindrance to every person in this room that one of these days you might want to do something that would run afoul of this regulation. Absolutely any one of you could lose land because of this, any person in Fulton County can. Now just take the case of a person somewhere in an unincorporated part of the County, it could be anywhere in the County with an unincorporated area of 10 acres, with the pipeline diagonaling across it, and the property gaining in value, them wanting to put in a R-4 subdivision, which they ordinarily, with the easement that the pipeline company has in there, could get 40 lots, but with this restriction they can only get 30. That’s a loss of 25 percent of the value of that tract of land just because of this regulation. That’s what I’m talking about by the taking of people’s property. You’re taking their property. I think that this will not stand muster if it was carried all the way to the Supreme Court. I don’t know, an individual homeowner is not going to take it to the Supreme Court, I don’t think. I don’t know who we’ve got that could take it all the way. I guess you’ve got to have a case, first of all. But to get back to the individual, if you own a piece of property, and let’s say that fire they’re talking about did not destroy your home but let’s say the value of homes in your area, a lot of them have been rebuilt, they’re expensive, and big homes were built in your area. The lot itself might be worth $300,000 that you own and your house was drastically destroyed by fire. Nobody might pay the $300,00 for that lot because they couldn’t build a residence on it in keeping with the neighborhood. They had to build another small residence or repair the one that was there when the proper thing to do would be to tear it down. But somebody would probably say, no, you can’t build this house you want to on this piece of property. Forget the sale of it, owner, it’s on your hands. So you’re sitting there with a lot that you can’t sell. You can’t sell it, folks. Is this not the taking of people’s property? Our Staff would have you believe we can make an exception, the Staff can do it. Don’t believe it. Look at the Staff and think what we might have on the Staff. I’m not worried about
the present Staff. I'm worried about what may happen 10 years from today, five years from today or 20 years from today. This is a bad, bad, bad piece of legislation. It's a piece of legislation that's been promoted by people that don't really understand what it does. People look at it as if it's a restriction on the pipelines and they're making off like bandits. Absolutely. You're helping them, you're protecting them, you're giving them more protection, and they're not spending one cent for it. Who's spending the money? Individual homeowners and individual property owners. That is at the bottom of this whole thing. Anybody who thinks it's right to just put in additional regulations.... And you're doing it on the basis of safety and health. Everybody says this is a health issue. Look, it's a property rights situation. The Federal government has restrictions designed to protect the public. They're in place. These are usurping, interstate requirements and broad Federal government regulations. They're not usurping them as much as they're adding on to them, by putting in additional restrictions. It doesn't hurt the pipelines one iota. What it hurts is individual property owners. For that reason I could never support the thing and hope I will always, always, speak out on behalf of you, the public. This is not in your best interest. It's in your detriment and you shouldn't stand for it. Do you need somebody to say this is a conservative liberal issue? Absolutely not. It's an issue of whether this Board of Commissioners should take away your property without any compensation. That's the issue. Thank you."

Commissioner Fulton - "Mr. Chairman?"

Commissioner Darnell - "Mr. Chairman?"

Chairman Kenn - "Point of order. There is still a Public Hearing on this, so procedurally, let me see if there's anybody from the public that wants to make a comment on this matter and then we'll proceed."

Commissioner Lowe - "I hope you got that verbatim."

Madam Clerk - "I do."

Chairman Kenn - "Yes."

Tochie Blad, 7320 Hunters Branch Drive - "I'm speaking for the pipeline setback requirement, and basically I just feel
like we’re losing sight. It is an environmental issue. Your groundwater does become contaminated when these lines leak frequently. The number one cause of pipeline accidents are encroachment into the pipeline issue and breaking of the line. And if it’s an undetected leak it can contaminate your groundwater. And this has happened in numerous cases. There were 194 accidents from ’71 until 1996, on Colonial’s pipeline listing, of reportable accidents, and accidents over 32 barrels, which is roughly 500 gallons of gasoline. Basically, it’s an important piece of legislation. Setting homes back from this is important. And the land is still usable for sidewalks, driveways, and other things, it’s just not where you want people to live. Thank you.”

Chairman Kenn - “Are there any other comments by anyone? Go ahead, sir.”

Glen Estell, 5101 Peachtree Dunwoody Road - “My name is Glen Estell, and I’m speaking against the pipeline resolution here. My wife and I live at 5101 Peachtree-Dunwoody Road, and we’re right on that easement that is for Colonial Pipeline. And I just want to tell you, first of all, I couldn’t agree more with Commissioner Lowe about the taking of land without compensation. We just bought this house in May and that 40 feet that you are proposing would literally run right under the back of our house. There is nothing in the legislation that we’ve seen that would indicate that there was automatic ability to rebuild and, consequently, we lose value when you get ready to sell this property. ...Or if someone who is a buyer has an opportunity to go for insurance or go for financing, obviously, they’re going to run into restrictions. So we think we are a living example, if you will, of the hypothetical ... that Commissioner Lowe was talking about and we ask that the Commissioners deny this request. Thank you.”

Chairman Kenn - “Are there any other comments?”

Ed Floyd, 945 East Paces Ferry Road - “I am Ed Floyd, Staff Attorney with Plantation Pipeline Company, and to my left is Bryant Dicks, a Senior Staff Engineer with Plantation Pipeline Company. We speak in opposition to the legislation. The Honorable Chairman and Members of the Commission, Plantation Pipeline Company believes the proposal concerning a Land Disturbance Permit Application under consideration today by the Commission is a step in the right direction and the permit requirements will add a measure of safety in
preventing pipeline releases caused by third parties. However, Plantation believes the setback requirements do not address the root of the problem with excavation damage to pipelines. Advance coordination by developers with underground utilities is the key to the issue. Plantation feels the offset provision is already covered by 49 C.F.R. 195.210, concerning pipeline location. This provision basically reads as follows: 'Pipeline right-of-way must be selected to avoid, as far as practical, areas containing private dwellings, industrial buildings, and places of public assembly.' The B portion of this says, 'No pipeline may be located within 50 feet of any private dwelling or industrial building or place of public assembly, in which persons work, congregate or assemble, unless it is provided with at least 12 inches of cover in addition to that as prescribed in 195.248.' Other concerns Plantation has with the proposal deal with Section E are the Land Disturbance Permit Requirements. Transmission lines in the proposal are defined as fuel oil/liquid petroleum pipelines. They have no location class. Location classes only govern natural gas pipelines under 49 C.F.R. 192. Liquid pipelines have no location classification and are governed by 49 C.F.R. 195. Provision E(1)(d) should therefore be deleted as the provisions ... erroneously require location classes for liquid lines. Plantation also wishes to comment on Section E(1)(c) and (e) of the proposal. There's absolutely no need to mention the operating hoop stress in percentage of SMYS, that's the Standard Minimum Yield Strength, of the pipeline in the Land Disturbance Permit Application. Operating pressure and operating hoop stress are under the exclusive regulation of the Department of Transportation; therefore, E(1)(c) and (e) should also be deleted from the Land Disturbance Permit Application. The Land Disturbance Permit Application proposal already involves considerable expense to the developer, as well as the pipeline company, in terms of time to have a survey of a pipeline easement's location, size, and depth by a professional engineer or land surveyor. Plantation's intent, in recommending these deletions, is to streamline the information contained in the Land Disturbance Permit Application so that only essential and relevant information is contained in the permit. Thank you for allowing these comments. If you have any questions, we'd be glad to answer them."

Chairman Kenn - "Are there any other comments by anyone? Mr. Hendricks."
Nathan Hendricks, 6085 Lake Forrest Drive - “Mr. Chairman, if I could. I asked Staff to put the site plan up from the CUP case that we just had a few moments ago. This is a real-life example. There is a Colonial Pipeline easement running right through the middle of that property. That particular development has benefit of already going through the permitting process so we’re under the development rules and regulations as they exist, so that piece of property, as you see it up there, is okay. If you saw fit to adopt this legislation today, it would be no adverse ramification to that piece of property. But, had that piece of property come on after the fact of your action to approve this legislation, the financial ramification to that developer would have been $1.2 million in value of land paid, not improved lots, but value of land paid. That’s significant.”

Chairman Kenn - “All right. Are there any other comments? Yes, sir.”

Larry Cummings, 4800 Powers Ferry Road - “My name is Larry Cummings. I live at 4800 Powers Ferry Road and I have about 200 feet adjacent to the pipeline easement, and I think it would be detrimental to the value of my property. And I would just like to go on the record saying that I’m opposed to this legislation.”

Chairman Kenn - “Yes, sir. Do you have further comment?”

Dick Wilson, 2849 Paces Ferry Road - “Yes, sir. My name is Dick Wilson of 2849 Paces Ferry Road. I’m an attorney, much like Mr. Hendricks. And I represent a lot of developers. I have several clients who do own parcels of property that they’re going to develop that are affected by pipeline easements. This legislation will be significantly detrimental to them, just as described by Mr. Hendricks in connection with his client. And I would second what Mr. Lowe has said, very clearly. Our position would be that this is very clearly a taking of property, which compensation would be required for. Thank you. In that regard, I would respectfully request that this legislation be adverse. Thank you.”

Chairman Kenn - “Fine. I see rebuttal here.”

Ms. Blad - “I think we’re losing sight of what this is about. Recently, in Bellingham, Washington State, the Seattle Times describes three die, including two boys, when fireball erupts
in Bellingham pipeline explosion. This is an unfortunate case where a 16-inch line was nicked by a county construction crew installing water lines. The gas leaked. The little boys were in the creek near the gas line. The ignition source appears to be a fire and someone lit a match. And these little boys and this teenager were killed. This is a real-case example less than a month ago. This is what you're trying to protect your individual citizens from and sometimes you have to look at the greater good. It will take these developers to plan a little bit better and lay out their lots a little differently than they have in the past. They don't need to put.... If you don't do any action today, the 30-foot easement that we see in much of our area, developers can continue to build 15 feet from the pipe. The pipe is in the center most of the time. From that line, they can build the wall of a home. They're allowed to do it. They're getting by with it, and they'll continue to do it. You need to act for the greater good. Thank you."

Chairman Kenn - "Okay. I'm going to close the Public Hearing at this time. Are there questions or comments?"

Commissioner Darnell - "I had asked to be recognized."

Chairman Kenn - "Emma was recognized first."

Commissioner Darnell - "Thank you, Mr. Chairman. I'd like to ask the Staff a couple of questions. Ms. Leathers?"

Ms. Leathers - "Yes, Commissioner."

Commissioner Darnell - "...And Dr. Fason, either one. In the materials which you have sent to us pertaining to this item, you have validated the claims, by the proponent of the legislation, that these pipeline situations can result in substantial damage to persons and property from pipeline failures; is that correct?"

Dr. James Fason, Director, Environment and Community Development - "That's correct."

Commissioner Darnell - "The second question is, this Commission appointed a Commission on the Environment to advise us with respect to any activity or potential action by this Commission that might have an adverse effect upon people. Has the Commission on the Environment, which is composed of citizens appointed by all seven of us from..."
throughout the County, reviewed this issue?"

**Dr. Fason** - "They have and issued a letter supporting that."

**Commissioner Darnell** - "What is the position of the Fulton County Commission on the Environment, with respect to the legislation that is before us?"

**Dr. Fason** - "They support approval."

**Commissioner Darnell** - "What were the reasons that they gave?"

**Dr. Fason** - "...Public safety and protection of the environment."

**Commissioner Darnell** - "I thank you very much. To the County Attorney, I would like to ask your opinion, with respect to this legislation, which, number one, includes in the record information supporting the conclusion that pipeline failures have caused and can cause significant injury and damage to persons and property, and which also provides for variances where the facts indicate that such legislation would constitute any kind of impediment upon an owner from developing his property. Would you give us an opinion, with respect to the constitutionality of such legislation?"

**O. V. Brantley, County Attorney** - "Commissioner, I have had the opportunity to review the case law in this area. It is my opinion that this legislation is, in fact, constitutional. It does not amount to a taking of property without compensation."

**Commissioner Darnell** - "Thank you very much. I have just one comment. I support the legislation for the reason that, as representatives of the people, we must consider not only the interests of property owners, but we must also consider the interests of people. We just have that little problem, during these kinds of discussions, where we have to deal with people who are breathing, in addition to land. I will never support legislation which is in derogation of the rights of property owners, nor will I knowingly support legislation that is in derogation of the health and safety of people, and especially where the most vulnerable groups are the very young and the very old. In Fulton County we have had an experience, which brought home to us in very clear terms, that pipelines are not very good bases upon which we can
advance the cause of developers. I would urge my colleagues to support this legislation. Frankly speaking, I don’t consider the 40-foot buffer to be adequate, based upon the record. Our job up here is to balance interests and I believe that the 40-foot buffer is a good balance between the interests of property owners and the interests of the thousands of people who could be affected by a pipeline failure. And when I add, of course, to that, the opinion of the County Attorney, indeed is a constitutional piece of legislation, then I think that because of our responsibilities to people, as well as to developers, we ought to take this step to protect them. So I would urge my colleagues to support this legislation, with the understanding that it does not go far enough, but I think it is a good compromise protecting the rights of property owners but at the same time moving our children and our grandchildren almost up to the level where we have developers. Thank you.”

Commissioner Lowe - “Mr. Chairman?”

Chairman Kenn - “Yes.”

Commissioner Lowe - “I’ll try to rap it up. Folks, I guess when we go down the road certain things become buzz items or buzz words. A number of years ago it got to be the environment. I’ve used it myself to fight things. I’ll tell you a long story about one of the first times I used it 30 years ago. I told somebody, attack it on environmental issues. I said that’s one thing the State can’t argue with. You can fight it on that issue. We talk about this and this environmental group has been for it. Now let’s see what this regulation might do that’s not already in effect. It is my considered opinion that this legislation does absolutely zero for the environment. Don’t think by increasing the width that if you get a small leak or any kind of leak -- it’s not going to stop it. It doesn’t give any more protection, none, environmentally, zero. Counter to that, let’s look at the value of pipelines. I don’t know how many is in this room that have heard it before but I’m going to go through it. This pipeline, if I’m not mistaken, carries on a daily basis, or the liquid lines that run through our County, the equivalent of what it would take 7,000 18-wheel tankers a day to carry.... Seven thousand tanker trucks coming through our City, they’ve got to get from southwest to northeast someway, that’s where it’s going. Has anybody ever thought about the environmental damage, not
to mention life and limb, of another 7,000 18-wheeler,
starting midnight last night and ending at midnight tonight
and at midnight tonight an additional 7,000 start coming
through our community, seven days a week, 365 days a year?
That’s what the pipelines keep from happening. Has anybody
ever thought of the tons of pollutants that would enter the
air from those 7,000 tankers running from Texas to New York?
My lord, you’re talking about tons and tons of pollutants
entering the air every 24-hour cycle. If you want to talk
about damage to the environment, look at it if you didn’t
have pipelines. The people from Colonial, I didn’t even know
they were going to be here, they’ve already told you about
seven or eight or 10 different instances that this
legislation violates and does not geehaw with Federal law.
I’d say if you’re going to pass it, like it is, with all it’s
imperfections, and then hopefully somebody will take it all
the way up. I know what will happen but it’s just a way to
spend money. We’re hiding. And I want to tell you another
thing, folks, I’m not calling any names or anything else, but
there are people that would support this because it does
hamstring and lessen the amount of development that people
can put on their property. They want less homes. I didn’t
even know, when Pete Hendricks came down here, that somebody
had analyzed this tract of land we originally zoned.
Oftentimes people sell property and if it’s subdivision
property their deals are conditioned on how many building
sites they can sell. And on the one plan that we approved,
if this regulation had been in effect before it was approved,
before it was filed, it would mean $1.3 million to the owners
of that tract of land. Now, folks, if anybody thinks this is
not property rights, if anybody thinks this is an
environmental issue, they ought to vote for it. If you think
it’s not a property rights issue then the public doesn’t
count. You heard the man stand right here that lives near
the pipeline, he’s right. His property value is not only
affected if his house gets burned or if he wants to tear it
down and build a big home, that’s not the only time. It’s
affected the minute you pass it because today maybe he could
sell that lot for $300,000, I don’t know. The minute it goes
into effect, the buyer doesn’t exist for that lot. His value
of that house, his own value in that particular house, by
this action, could be reduced by $150,000 to $200,000. Don’t
ever believe, ladies and gentlemen.... It’s who’s ox is
getting gored. It may not be your ox right at the moment.
You may live four miles from a pipeline. It may not affect
you one iota. But by gosh tomorrow if you permit this
government and your State government and Federal government
to pass unfair legislation that takes away your rights,
you’re foolish. You shouldn’t permit it. You should, every one of you, rise up and say this is unfair, it’s not right, and this government doesn’t have the right to do it. I might say, we talk about those 7,000 trucks a day coming through this City. If you didn’t have this pipeline, have you ever thought.... To my knowledge, there hasn’t been one death, I was going to say in the State of Georgia, I’ll say Fulton County, in the last 40 years. There hasn’t been a death in Fulton County due to a pipeline, maybe never, not one death. Have you ever thought of the deaths that would occur every day from 7,000 more? Whether it’s one a week or two a week or two a month, something would be caused by an additional 7,000 tractor trailers coming through town. It’s something and it would be appreciative, sizeable. They run over cars and grind up whole cars and whole families at one time. It doesn’t make sense, ladies and gentlemen. If I could ever get passionate about anything, it’s about taking away your individual rights, as a government. That is clearly what we’re doing. It’s clearly unconstitutional and we should not do it. I would urge my fellow Commissioners to look at it as what it really is, not under the guise of buzz words, [saying] we’re doing this for safety and for the environment. This thing is not doing one thing for the environment, not one, that I can see, that is helping the environment. Thank you, ladies and gentlemen.”

Chairman Kenn - “Okay. Are there other comments?”

Commissioner Lowe - “I want that verbatim, too.”

Commissioner Fulton - “Mr. Chairman?”

Chairman Kenn - “Yes.”

Commissioner Fulton - “The issue that I have is, I believe, related to the ability to reconstruct homes on essentially the same footprint if safety permits. And while I believe the wording in here provides some mechanism to address that, I’d like to ask if the makers of the motion would consider a minor adjustment, a friendly adjustment. The verbiage goes something like this, that exists, that is already there, ‘the reconstruction of any structure existing at the time of this adoption that does not comply with the terms of Section 34.5 may be considered for an administrative variance in accordance with Article 22.’ That’s all it says. And I’d like to add in, ‘And special consideration could be given for reconstruction on the same footprint when safety permits.’

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And that would then allow the Staff to pay special attention
to those cases where you have a rebuilding on exactly the
same footprint, and if it can be judged that if it has been
safe and will be safe in the future, then to proceed ahead.
So I'd like to ask the makers of the motion to consider that
minor addition to the verbiage and say, 'And special
consideration shall be given for reconstruction on the same
footprint when safety permits.'"

**Commissioner Darnell** - "Mr. Chairman?"

**Chairman Kenn** - "Yes."

**Commissioner Darnell** - "I accept that amendment as not only
appropriate but consistent with the opinion of the County
Attorney."

**Commissioner Fulton** - "Who was the second?"

**Madam Clerk** - "Hightower."

**Chairman Kenn** - "Well, without Commissioner Hightower....
All right, I'm going to make a comment while we try and
locate Commissioner Hightower. He's in the building. I
think he's back there."

**Commissioner Fulton** - "He's probably in front of the t.v."

**Chairman Kenn** - "When I look at this legislation, I see or
support or identify with arguments on both sides of the
fence. I just don't think it goes far enough yet, not only
addressing the safety concerns, which I am in favor of, but
to make sure that the homeowners or property owners are
protected also. I just don't think it goes far enough yet,
so I'm not going to vote for or against it. I'm going to
abstain in my support for it and see where it lands. Do we
have any other comments on this legislation?"

**Commissioner Fulton** - "No, Mr. Chairman. Did we get a
concurrent...."

**Chairman Kenn** - "It did."

**Commissioner Fulton** - "And my view is I believe this is the
right thing to do for safety considerations. We just need to
protect the rights of those people who have made commitments
in the past."
Chairman Kenn - "All right. Call the question. Okay, the item's approved."

Commissioner Darnell made the motion to approve as recommended by Staff with a friendly amendment from Commissioner Fulton that special consideration be given for reconstruction on the same footprint when safety measures permit, which was seconded by Chairman Kenn and carried by a vote of 4-2-1. Commissioners Boxill, Darnell, Fulton, and Vice Chairman Hightower voted "yes." Commissioners Lowe and Webster voted "no." Chairman Kenn "abstained."

99-0783 PETITION #99Z 0006 FCN, FINLEY ROAD - APPLICATION OF GENE E. FINDLEY SEEKS TO REZONE FROM AG-1 (AGRICULTURAL) AND CUP (COMMUNITY UNIT PLAN) CONDITIONAL TO CUP (COMMUNITY UNIT PLAN) (DENIED)

Ms. Justine Boyd, Clerk to the Commission, presented the following letter from E. F. Morey, Chairman, Fulton County Planning Commission:
PART 1
ARTICLE 34 - DEVELOPMENT REGULATIONS

34.5.10 PIPELINE EASEMENT SETBACK.

A. Setback Requirements.
No buildings used for human occupancy shall be permitted within forty (40) feet of any easement containing a gathering or transmission line as defined in this resolution.

B. Land Use Restrictions.
No building or structure or part thereof, which is used for the manufacturing, processing, generation or storage of any material in the following listing shall be constructed within one hundred twenty-five (125) feet of any distribution, gathering, or transmission line easement.

1. corrosive materials
2. highly toxic materials
3. oxidizing materials
4. pyrophoric materials
5. water reactive materials
6. highly combustible materials
7. flammable materials
8. explosive materials
9. materials that pose a hazard to human health
10. loose or combustible materials
11. dust

C. Exceptions and Exemptions.
This Ordinance shall not apply to:

1. Any land disturbance or construction necessary to provide access to a property, when no other reasonable access is permitted, or any building, land disturbance or construction necessary to provide utility service to a parcel of land;

2. Any land disturbance or construction on a pipeline by or on behalf of the owner or operator of the pipeline

3. Any driveway, street, parking lot, tennis court, volleyball court, play area, recreational area, deck, patio, or any other impervious surfaces.

D. Variance Criteria.
Any deviation to the requirements of this section (34.5.10) shall be considered in accordance with Article 22 Appeals, as a Primary Variance or Concurrent Variance and shall comply with Section 22.4.1 Variance Considerations and Findings (hardships).
E. Land Disturbance Permit Requirements

In addition to any other requirements contained herein, all land disturbance permit applications shall provide the following:

1. A survey by a professional engineer or land surveyor licensed in the State of Georgia indicating the location of all on-site pipeline easements and rights-of-way indicating:

   a. gathering or transmission line plan location and depth;
   b. gathering or transmission line size;
   c. operating pressure;
   d. location class as defined by the United States Department of Transportation;
   e. operating hoop stress in percentage of SMYS (specified minimum yield strength) of all gathering or transmission lines within forty (40) feet of the boundaries of the subject property; and
   f. the location of all off-site gathering or transmission line easements and rights-of-way within forty (40) feet of the boundaries of the subject property.
PART 2

ARTICLE III

DEFINITIONS

3.3.4

**Distribution Line** - a pipeline other than a gathering or transmission line.

3.3.5

**Fuel Oil** - a liquid petroleum product that is burned in a furnace for the generation of heat or used in an engine for the generation of power. The oil may be a distilled fraction of petroleum, a residuum from refinery operations, a crude petroleum, or a blend of two or more of these.

3.3.7

**Gathering Line** - a pipeline that transports fuel oil/liquid petroleum product from a current production facility to a transmission line or main.

3.3.8

**Hoop Stress** - a causation of internal and external pressure loading on the pipe.

3.3.16

**Pipeline** - any conduit through which natural gas, petroleum, oxygen, or other flammable or combustible products, or any of their derivative products are conveyed or intended to be conveyed.

3.3.19

**Service Line** - a distribution line that transports natural gas from a common source of supply to: (1) a customer meter or the connection to a customers's piping, whichever is farther downstream, or (2) the connection to a customer's piping if there is no customer meter. The customer meter is the meter that measures the transfer of gas from one operator to a customer.

3.3.20

**Transmission Line** - a pipeline other than a gathering line that (1) transports fuel oil/liquid petroleum product from a gathering line or storage facility to a distribution center or storage facility and/or (2) transports fuel oil/liquid petroleum product within a storage field.
PART 3
34.4 PERMIT AND SIGN-OFF REQUIREMENTS

RECOMMENDATION: WITHDRAWAL

Amend Article 34, DEVELOPMENT REGULATIONS, Section 34.4 PERMIT AND SIGN-OFF REQUIREMENTS by adding to Paragraph E., a standard Number 10 regarding a setback for water intake and discharge points.

34.4 PERMIT AND SIGN-OFF REQUIREMENTS

These standards acknowledge or establish Fulton County requirements for permits for development of properties within the unincorporated area of Fulton County. All development shall comply with these and other requirements including, but not limited to, the Fulton County Tributary Buffer Ordinance, the Fulton County Tree Preservation Ordinance and Administrative Guidelines, the Fulton County Sediment and Erosion Control Ordinance, and the Georgia Metropolitan Area River Protection Act.

34.4.1 LAND DISTURBANCE PERMIT PREREQUISITES. Prior to the issuance of a Land Disturbance Permit or the issuance of a certificate of occupancy for each phase of development, the following documents shall be submitted to the Director of the Development Services Department for approval. (Amended 11/03/93)

E. Storm Water Management Plan (Name Changed 07/07/93)

1. Evaluate the downstream ditch stability and bank erosion protection potential of existing downstream conveyance system. Provide all necessary documentation to the Department of Public Works, Storm Water Management Section at construction drawing phase.

2. Contact the Department of Public Works, Storm Water Management Section to arrange an on-site evaluation as to the location of storm water facility, discharge path of detention/retention pond and other downstream constraints.

3. The design discharge at the outlet of drainage system shall not result in velocities that equal/exceed the erosive velocity or the existing receiving channel/draw, unless dissipation and erosion protection measures are placed at the outlet. Said documentation shall be provided to the Department of Public Works, Storm Water Management Section.

4. Provide downstream analysis of the flood discharge timing effect on the existing conveyance systems due to each storm frequency.

5. All natural streams within the limit of the project must be stable and be expected to remain stable under ultimate development or provide appropriate erosion protection for the streams subject to the approval of the Department of Public
Works, Storm Water Management Section.

6. Evaluate the downstream effect from storm water management structures and the development, hydrologic-hydraulic engineering studies shall extend downstream to a point where the proposed development represents less than ten (10) percent of the total watershed to this point.

7. The result of the extended downstream point analysis (10 percent point) shall be included in the hydrologic study submitted with the storm water management plan. Said documentation is subject to approval by the Department of Public Works, Storm Water Management Section.

8. Provide Detention/Retention as maybe required by Fulton County subject to the approval of the Department of Public Works.

9. The development site shall be graded in such a manner that the surface runoff does not affect downstream lots, flow through lots shall be collected and conveyed in appropriate storm drainage system. Documentation shall be provided at construction drawing phase.

10. Water intake and discharge points in a single family residential development to be a minimum of 15 feet from any existing or proposed residential structure and to be at a minimum of 5 feet above and/or 5 feet below any existing or proposed buildable area.