



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### **m e m o r a n d u m**

**TO:** The Urbana Plan Commission

**FROM:** Paul Lindahl, Planner I

**DATE:** February 16, 2007

**SUBJECT:** Plan Case No. 2019-S-06, A combined Preliminary and Final Plat of Brickhouses Subdivision

---

### **Introduction**

This case is a request by Deborah and Michael Insana for approval of a combined Preliminary and Final Plat of Brickhouses Road Subdivision. The proposal is for a development of 12 single family residential lots on a 24 acre tract of land located within the City's mile and one-half extra-territorial jurisdiction (ETJ) area. The subject property is located on the north side of Airport Road east of High Cross Road. The property is zoned County AG-2, Agriculture with the recent addition of the County's Rural Residential Overlay (RRO) zoning designation.

### **Background**

The City has subdivision and land development jurisdiction within the ETJ area, while the County holds zoning jurisdiction. The subject property was the topic of Champaign County Zoning Board of Appeals case CCZBA-546-AM-04 which was a request to rezone the property from AG-2, Agriculture district by adding the Rural Residential Overlay (RRO) zoning designation. Under the Champaign County Zoning Ordinance the RRO designation is necessary to permit a development of multiple residential lots.

The City has the obligation to review zoning decisions within its ETJ area for consistency with the City's Comprehensive Plan. The subject property and surrounding area on the north side of Airport Road has an Urbana Comprehensive Plan Future Land Use designation of "Residential". At their August 24, 2006 meeting the Urbana Plan Commission found the proposed RRO zoning overlay was generally consistent with the Comprehensive Plan Future Land Use designation of "Residential" and voted 8-0 to recommend "no protest" to the City Council. The Urbana City Council concurred and no protest against the County RRO zoning overlay was filed. The Champaign County Board approved the RRO zoning overlay designation for the property at their November 21, 2006 meeting.

## **Issues and Discussion**

The County process for RRO *zoning* designation has different goals and criteria than the City's *subdivision* review process. Although the City chose not to protest the County RRO *zoning* designation, the improvements proposed as part of a subdivision development must still meet the minimum standards of the Urbana Subdivision and Land Development Code, unless such standards are waived in accordance with the Code.

The Subdivision and Land Development Code is intended to protect the long term health, safety, and general welfare of the public. Therefore the Code is concerned with seeing that development patterns and public improvements are designed to be efficient, orderly and are sufficient to serve the development for coming decades.

The petitioners have requested waivers from certain requirements of the Urbana Subdivision and Land Development Code. The petitioners state that waivers are justified for the development because the subdivision will be a rural type development located in a rural area, which is expected to remain so for many years. The requested waivers are for:

- A street right-of-way of 50 rather than 60 feet;
- A street pavement width of 25 rather than 31 feet;
- Construction of sidewalks;
- Construction (and temporary capping) of sanitary sewer mains and laterals; and
- A Stormwater Detention Basin Operations and Maintenance Agreement.

## **Subdivision Review**

The proposal is for a subdivision of 12 single-family residential lots on a 24 acre tract of land located outside City limits but within the City's mile and one-half extra-territorial jurisdiction area. All lots will front on a single cul-de-sac street from Airport Road called Brickhouses Road. In terms of sewage disposal, each lot will be served by a septic tank sewage system. The developers are requesting a waiver from the Subdivision Code requiring installation (and temporary capping) of sanitary sewer mains and laterals to provide for eventual connection to the sewage system. In terms of water service, the developers will extend to the subdivision, at their expense, a public water main from High Cross Road and along Airport Road.

Detailed site engineering plans including grading, sewer and pavement structures have been submitted. The Urbana Public Works Department has reviewed the plans and with the exception of the omissions noted due to requested waivers found the plans satisfactory. Final plans will be further reviewed.

In terms of stormwater, a stormwater study and plans for runoff and detention have been provided by the developer's engineers. City staff have reviewed and approved the physical design of the drainage improvements. Storm sewers will be installed to drain into a detention pond and into culverts along Airport Road. The detention provided will reduce the rate of stormwater runoff from the entire 24-acre development.

The plat has been transmitted for review to outside agencies. The Urbana-Champaign Sanitary District is opposed to the developer's request for a sanitary sewer waiver. No other significant comments have been provided by outside agencies. Public utility easements are depicted on the plat.

### **Waivers Requested**

The petitioners have requested waivers under Section 21-7 to allow their development to deviate from certain standards of the Urbana Subdivision and Land Development Code. Requested waivers include the following:

1. Waiver of Section 21-36.A.1 and Table "A" entitled "Minimum Street and Alley Design Standards" to allow a local residential street right-of-way of 50-feet rather than the minimum required 60-feet; and
2. Waiver of Section 21-36.A.1 and Table "A" entitled "Minimum Street and Alley Design Standards" to allow a local residential street pavement width of 25-feet rather than the minimum required 31-feet; and
3. Waiver of Section 21-37.A.1 to allow the waiver of sidewalk construction rather than providing sidewalks on both sides of the street in residential developments; and
4. Waiver of Section 21-41.A and 21-41.C.6 to allow no sanitary sewers to be constructed rather than the requirement that sanitary sewer mains and laterals be constructed in a development laying within the boundaries of the Urbana Champaign Sanitary District, even though sanitary sewer service is not currently available at this time; and
5. Waiver of Section 21-42.E.2 to the extent that it requires the developer to provide for the permanent maintenance and operation of stormwater detention basin facilities via a Stormwater Detention Basin Operations and Maintenance Agreement with appropriate easements.

For the applicants perspective on the basis for granting waivers, please see Exhibit G, Waiver Requests.

### **Waiver Criteria**

Urbana Subdivision and Land Development Ordinance Section 21-7.A "Intent" (of waivers) states:

"It is the intent of this section, when appropriate and when a specific case of hardship is shown, to allow a waiver from the strict compliance with the provisions of this chapter. It is recognized that restrictions governing the development of land may not, under some specific circumstances, be fairly and equally applied to unusual or abnormal development conditions. Further it is the intent of this section to establish weighing criteria to determine the validity of a specific hardship upon which requests for waivers can be considered. Waivers are not intended to be used as a means of circumventing or evading the purposes of this chapter or any other requirement which regulates land developments."

Section 21-7.B “Criteria” (of waivers) states that City Council may grant waivers upon finding that all the conditions below apply:

- 1) There are conditions of topography or other site specific reasons that make the application of any particular requirement of the land development code unnecessary or, in some cases perhaps, even useless;
- 2) The granting of the requested waiver would not harm other nearby properties;
- 3) The waiver would not negatively impact the public health, safety and welfare, including the objectives and goals set forth in the comprehensive plan.

Section 21-7.C “Conditions” (of waivers) states that in granting a waiver, the Plan Commission and City Council may consider:

- the proposed uses and plans for development of the property;
- the nature of surrounding proposed or existing development;
- any pertinent environmental factors; and
- the property's designated use under the Urbana Official Comprehensive Plan.

In granting waivers the City Council may impose any requirements or conditions and restrictions the Council deems essential to protect the public health, safety and welfare. The Council may require said conditions be included in a plat, owner's certificate, deed, lease or other document of conveyance.

### **Analysis of Waiver Requests**

#### 1) Right-of-Way Width:

In the Brickhouses Road Subdivision the developers propose a 50-foot wide public right-of-way (ROW). The City has supported a reduction in ROW width for local streets from 60 feet to 50 feet in a few instances in the past, under unique circumstances. That reduction was approved for Lydia Court, for “The Ridge” (East Gate) Subdivision, and for the Cobble Creek Subdivision. The Lydia Court reduction was justified in that it was part of a higher density development creating small lots on a constrained site. Lydia Court is a short street with two turns and consequently slow traffic speeds. In the Cobble Creek Subdivision the reduction was justified because the stretch of loop street was also adjacent to a full width street and only served a small number of lots. In the Brickhouses Road subdivision the developers propose an 825-foot long cul-de-sac street which will serve only 12 houses.

Staff finds there are no site constraints on the 24 acre tract that preclude providing a 60-foot right-of-way as required by the Urbana Subdivision and Land Development Code. Therefore, Staff recommends against the granting of the waiver.

#### 2) Pavement Width

In the Brickhouses Road Subdivision the developers propose a 25-foot wide pavement surface. In the recent past the City has regularly supported a reduction in pavement width for local streets from 31 feet to 28 feet, and is completing a text amendment to the Subdivision Ordinance to request this reduced width. A 28-foot wide pavement offers enough road way for two-way traffic and parking on one side while reducing installation and long term pavement maintenance costs. The City approved a greater reduction in pavement width to 25 feet for Lydia Court in “The Ridge” subdivision. The justification and site constraints for that case were stated above. A second reduction to 25-foot width was approved for the Prairie Winds development for approximately 2,500 feet of Prairie Winds Drive because it was intended to be a secondary road in a gated condominium community.

Staff recommends granting a waiver to reduce pavement width to 28 feet, as opposed to the 25 feet requested, in keeping with recent practice. Staff recommends against further reductions in pavement width for this development.

### 3) Sidewalks on both sides of the Street

In a number of cases the City has supported alternative sidewalk plans and granted a waiver or deferral of construction of sidewalks on one side of local residential streets. The developers are requesting a waiver of sidewalks on both sides of the street for Brickhouses Road.

City Staff support a waiver for sidewalks only on the west side of the street. Staff does not find that the petitioners statement that the subdivision will be rural and with low traffic to be sufficient basis for not building sidewalks on both sides of the street or around the cul-de-sac. However, Staff does recommend approval of a deferral of construction of sidewalk on the north side of Airport Road until such time as increased development in the area justifies it and/or improvements to Airport Road occur.

### 4) Sanitary Sewers:

The proposed subdivision lies within the Urbana and Champaign Sanitary District (UCSD) Facilities Planning Area (FPA). However, the petitioners believe that sanitary sewers are not required because it lies outside the current sewer service area, citing Secs. 21-41.A and 21-41.C.6 of the Subdivision Code. refer to the current service area rather than the Facilities Planning Area. It is City policy that the boundary referred to in Section. 21-41.A of the Subdivision Code is the UCSC Facilities Planning Area. This is supported by the attached letter (Exhibit I) from UCSD to the petitioners on this matter.

The petitioners’ secondary position is that if the Subdivision Code section does apply than a waiver is still justified because the development is rural in nature, is surrounded by a rural area, has soils well suited to septic systems, and is unlikely to have public sewer service lines available in the foreseeable future. For the petitioners explanation on this issue please see Exhibit “H”, waiver applications.

City experience has shown that: 1) septic systems will eventually fail; 2) not all neighboring land

owners may agree it is necessary to install sewers at a given time; 3) the expense of installing public sewer lines years after a development is completed is often cost prohibitive for individual home owners and is highly disruptive to an established neighborhood; and 4) home owners with failed septic systems often turn to the City, County, or Sanitary District to pay for sanitary sewer extension when the “expense” should occur as part of when the subdivision develops.

Staff believes that the petitioners have not offered sufficient evidence of specific hardship, unusual development conditions, site specific factors, or absence of potential future adverse impacts. City Staff and the Urbana-Champaign Sanitary District recommend against granting a waiver of the requirement that the developers install and cap sanitary sewers and laterals for future connection to the sanitary sewer system. Other outlying subdivisions which have installed and capped sewer lines, such as Richardson Estates, are now benefiting from doing so.

#### 5) Stormwater Detention Basin Operations and Maintenance Agreement

The petitioners plan to construct a stormwater detention basin in accordance with the City’s Subdivision Ordinance but are requesting a waiver from Section 21-42.E.2 which requires a Stormwater Detention Basin Operations and Maintenance Agreement with any necessary easements.

The petitioners are requesting the waiver on the basis that the basin as designed is over sized, and is designed to look and function as a natural pond and so will not require the maintenance a normal detention basin would. The petitioners plan for the pond to be owned and accessible solely by themselves as the owners of the adjoining 10-acre Lot 12.

The basin is required for stormwater detention from the entire 24-acre subdivision. Therefore the basin will benefit the entire 24-acre subdivision, and perpetual maintenance of the basin is the responsibility of all the land owners within the 24-acre subdivision. What is at issue is the physical condition of the basin and the requirement to ensure that it will always be maintained by the home owners rather than the public at large. The purposes of having a homeowner’s association agreement with the City for detention basin maintenance include:

- 1) Reducing the risk that land owners in the subdivision could be harmed by a failure of another party to maintain the basin.
- 2) Ensuring that all land owners in a subdivision are aware they were responsible for the costs of maintaining the basin that serves their property.
- 3) Protecting downstream land owners from a stormwater basin maintenance failure.
- 4) Ensuring that if it becomes necessary for the City to repair the basin the City will be able to bill the property owners responsible for the failure to maintain the basin.

City Staff recommends against granting a waiver for a Stormwater Detention Basin Operations and Maintenance Agreement with appropriate easements.

## Summary of Findings

1. The proposed Brickhouses Road subdivision plat is consistent with the 2005 Comprehensive Plan Future Land Use Map designation and current zoning in the area;
2. The proposed Brickhouses Road subdivision plat conforms with the requirements of the Urbana Subdivision and Land Development Code, other than for requested waivers to the Code requirements for a 60-foot street right-of-way, a street pavement width of 31 feet, construction of sidewalks, construction and temporary capping of sanitary sewer mains and laterals, and a Stormwater Detention Basin Operations and Maintenance Agreement;
3. A waiver to Section 21-37.A.1 of the Subdivision Code, to not provide sidewalk is not recommended because the request does not meet the waiver criteria provided in Section 21-7.B of the Code; a waiver to allow no sidewalk to be constructed on the west side of Brickhouses Road is recommended,
4. A waiver from Section 21-36.A.1 and Table “A” of the Subdivision Code, to allow a reduction of street right-of-way width to 50 feet, is not recommended because the request does not meet the waiver criteria provided in Section 21-7.B of the Code;
5. A waiver from Section 21-36.A.1 and Table “A” of the Subdivision Code, to allow a reduction of pavement width to 25 feet, is not recommended because the request does not meet the waiver criteria provided in Section 21-7.B of the Code, but a waiver to allow a pavement width of 28 feet is recommended;
6. A waiver from Section 21-41.A and 21-41.C.6 of the Subdivision Code, to allow no sanitary sewer mains and laterals to be constructed, is not recommended because the request does not meet the waiver criteria provided in Section 21-7.B of the Code; and
7. A waiver from Section 21-42.E.2 of the Subdivision Code, to allow not entering into a Stormwater Detention Basin Operations and Maintenance Agreement, is not recommended because the request does not meet the waiver criteria provided in Section 21-7.B of the Code.

## Options

In Plan Case No. 2019-S-06, the Plan Commission has the following options in making recommendations:

- a. Recommend approval of the plat for Brickhouses Subdivision with the requested waivers;  
or
- b. Recommend approval of the plat for Brickhouses Subdivision with some of the requested waivers; or

- c. Recommend denial of plat the Brickhouses Subdivision. If denied, the Commission must state findings whereby the plat is deficient.

**Staff Recommendation**

Staff recommends that the Plan Commission recommend **APPROVAL** of the combined Preliminary and Final Plat of Brickhouses Subdivision, with the following conditions:

- 1. That a sidewalk will be provided on the east side of Brickhouses Road and around the cul-de-sac;
- 2. That the right-of-way width for Brickhouses Road be no less than sixty feet;
- 3. That the pavement width for Brickhouses Road be no less than twenty-eight feet;
- 4. That sanitary sewer mains and laterals be constructed and capped per the standards provided in the Subdivision and Land Development Code as well as Urbana Champaign Sanitary District standards; and
- 5. That a Stormwater Detention Basin Operations and Maintenance Agreement with appropriate easements be provided;

**AND** with the following waivers from the Subdivision and Land Development Code:

- 1. A waiver from Section 21-36.A.1 and Table “A” of the Subdivision Code to allow a reduction of pavement width for Brickhouses Road to 28 feet; and
- 2. A waiver from Section 21-37.A.1 of the Subdivision Code to allow no sidewalk to be constructed on the west side of Brickhouses Road.

Attachments:

- |                             |    |   |
|-----------------------------|----|---|
| Ex. A: Location Map         |    | Ex. F: Subdivision Application / Petition |
| Ex. B: Zoning Map           |    | Ex. G: Waiver Requests                    |
| Ex. C: Current Land Use Map | w/ | Ex. H: Site Diagram                       |
| Aerial Photo                |    | Ex. I: Correspondence from Ms. Insana     |

Ex. D: Future Land Use Map  
Ex. E: Subdivision Plat

Ex. J: Detention Basin Article from Ms. Insana  
Ex. K: Correspondence from UCSD to Ms. Insana

cc:

Michael F. and Deborah J. Insana  
1104 Oak Creek Road  
Mahomet, IL 61853

ZAMCO, Inc.  
Attn: Rex Bradfield  
1602 E. University Ave.  
Urbana, IL 61802

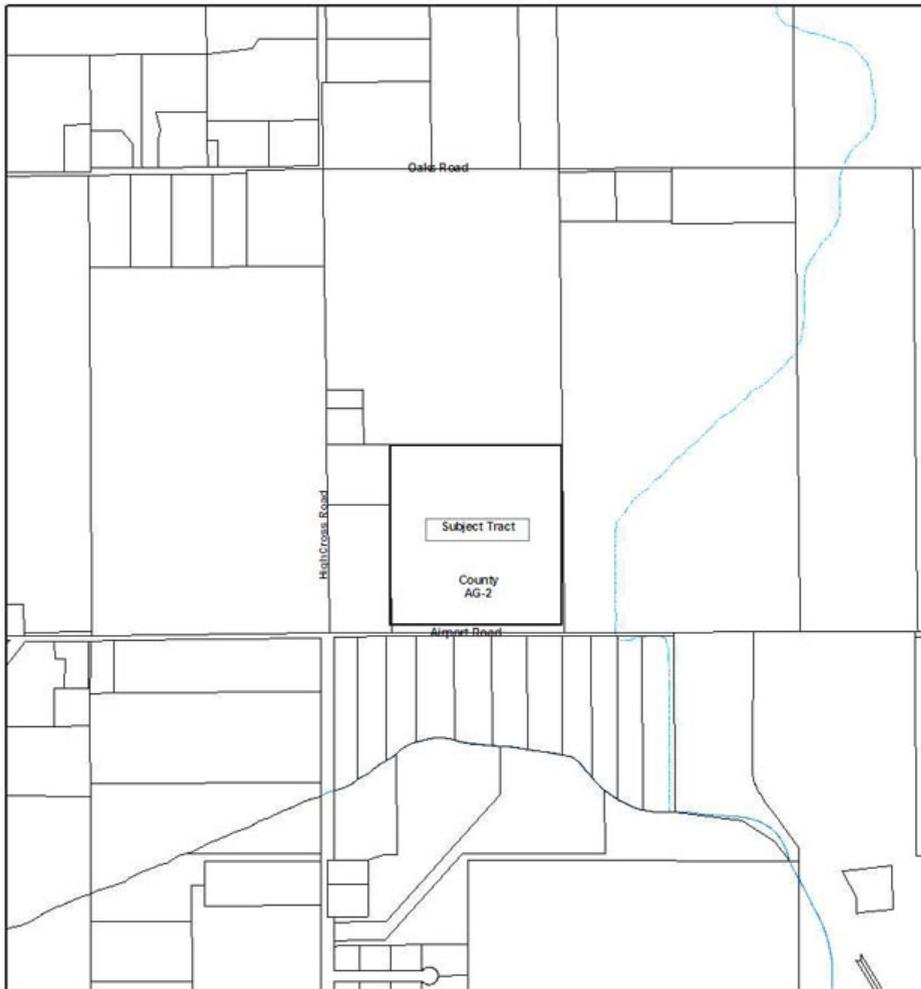
Meyer Capel Attorneys  
Attn: Jenny Park  
P.O. Box 6750  
306 West Church Street  
Champaign, IL 61826-6750

Champaign County  
Planning & Zoning Dept.  
Attn: John Hall  
1776 E. Washington Street  
Urbana, IL 61802

H:\Planning Division\001-ALL CASES(and archive in progress)\02-PLAN Cases\2006\2019-S-06, Brickhouses Sub, Insana  
Airport Rd (Major)\Brickhouses PC Memo v 10final.doc

# Location Map

# EXHIBIT "A"



0 550 1,100 2,200 3,300 4,400 Feet

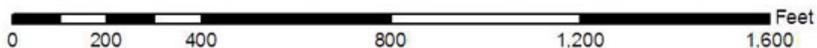
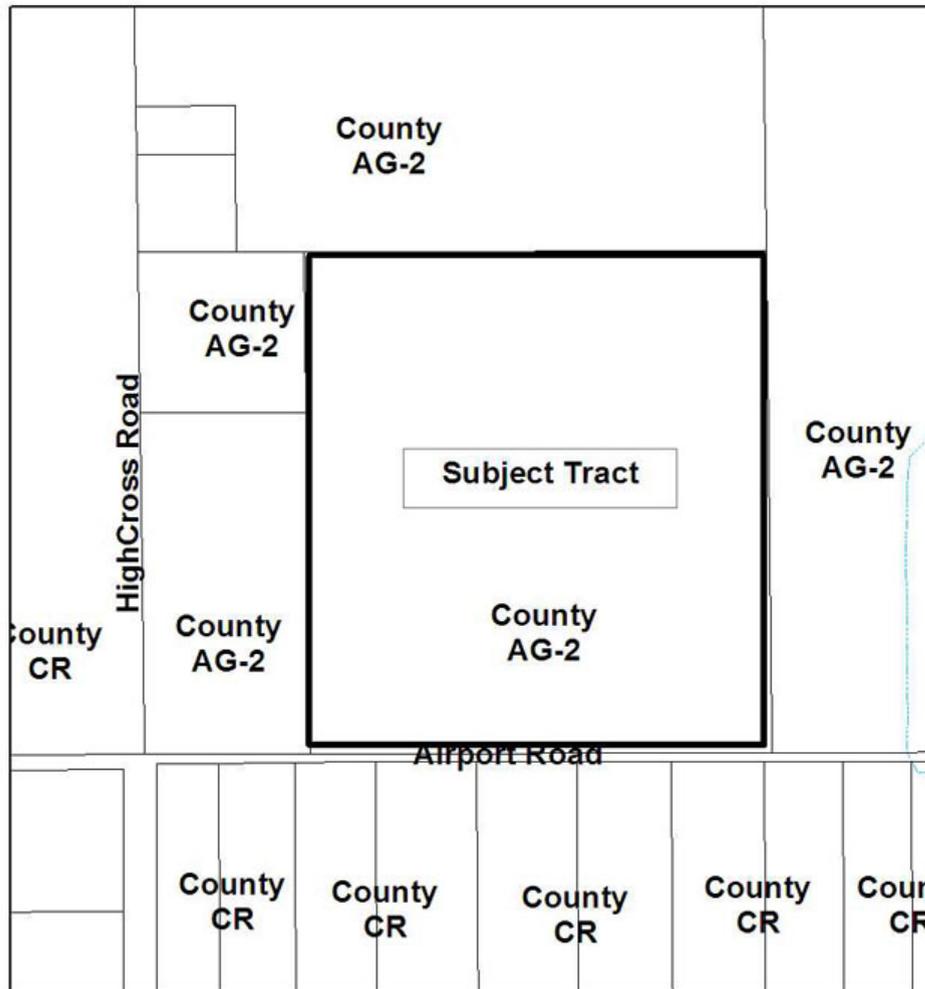


**Plan Case:** 2019-S-06: Brickhouses Road Subdivision (Major)  
**Petitioner:** Insana  
**Location:** Airport Road  
**Zoning:** RRO zoning overlay / County AG-2, Agriculture

Prepared 2/15/07 by Community Development Services - pal

# Zoning Map

# EXHIBIT "B"



Plan Case: 2019-S-06: Brickhouses Road Subdivision (Major)  
Petitioner: Insana  
Location: Airport Road  
Zoning: RRO zoning overlay / County AG-2, Agriculture

Prepared 2/15/07 by Community Development Services - pal

AG-2 = Agriculture

CR = Conservation Recreation

# Existing Land Use w/Aerial Photo EXHIBIT "C"



**Plan Case: 2019-S-06: Brickhouses Road Subdivision (Major)**

**Petitioner:** Insana

**Location:** Airport Road

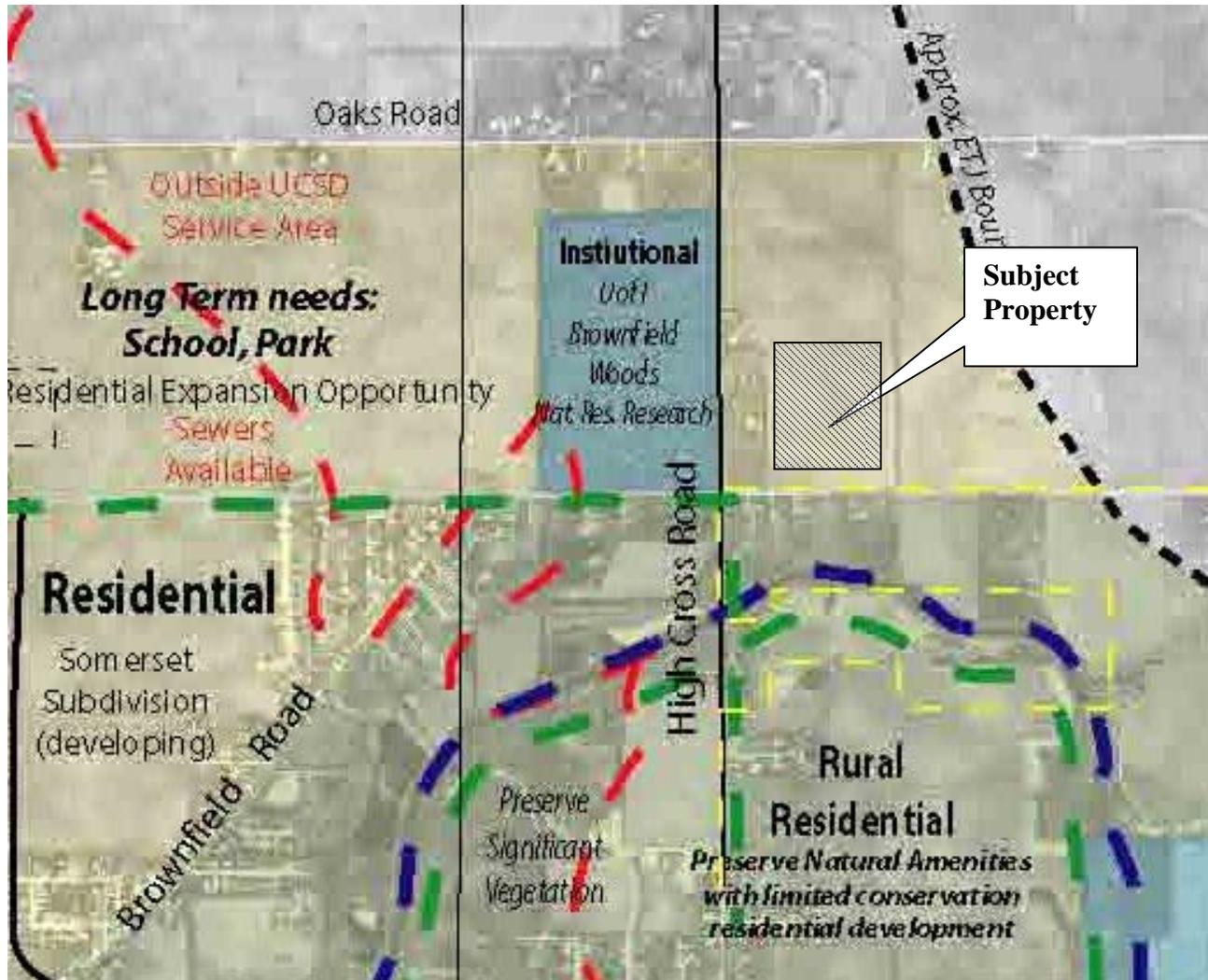
**Zoning:** RRO zoning overlay / County AG-2, Agriculture

*Prepared 2/15/07 by Community Development Services - pal*

# Future Land Use

# EXHIBIT "D"

Source: Comprehensive Plan Future Land Use  
Map # 2, p.73 – Detailed Section



**Plan Case: 2019-S-06: Brickhouses Road Subdivision (Major)**  
**Petitioner:** Insana  
**Location:** Airport Road  
**Zoning:** RRO zoning overlay / County AG-2, Agriculture

Prepared 2/15/07 by Community Development Services - pal