

SPECIAL BOARD OF ZONING APPEALS
MEETING MINUTES
June 25, 2018

Kris Schwickrath: Good evening, everyone. The special meeting of the Board of Zoning Appeals, this is June 25, 2018 is now ready to begin. We'll start with a roll call.

Bryant Niehoff: Mr. Lisher – here, Mr. Clark – here, Ms. Schwickrath – here, Mr. Cassidy – here.

Schwickrath: Prior to this special meeting, we have no approval of minutes nor Old Business and I thought before we start our new item, which everyone I'm sure you have done some research on. You have feelings about and thoughts and I appreciate, this board appreciates your presence here this evening. A few things that I thought we would establish before we proceed; so the scope of the Board of Zoning Appeals is to listen to the petition as presented. Can you hear me? I can speak up. Can everyone hear me?

No audible reply.

Schwickrath: Okay, then I will ask the board members to ask questions of the petitioner. There are six variances this evening and we will do one at a time. So our hope is not to rush through nor to drag things out, so we're all gonna have to keep a handle on the pulse, the board as well as the public. So we'll move along, but I want everyone to feel as though you have a chance to say what you wish to say. So when you, if you come forward to the microphone, you need to state your name for the record and then also please speak about that particular variance. One other item that I think everyone needs to know, and this was news to me when I first started on the Board of Zoning Appeals is that we, according to Indiana Code, have a very narrow view. Now that doesn't sound right. I know that, but we actually are obligated to maintain our own ordinances and tonight's meeting is really about development standards, not about the use. Because an ethanol plant is an allowed use. Just wanna make sure that everyone is clear about that part. So this board will listen to each variance and then we'll vote accordingly and then there will be a moment or a time after our questions on each variance for the public to step forward. I hope that's clear. I didn't mean to rattle on, but we do have to just follow procedure. If your questions become redundant, just monitor that so that we can cover all angles and then we will you're allowed to speak, of course, but I would like to keep it to 3-5 minutes per person. Alright? We'll just see how it goes. Alright, so this is all new for us too by the way. First time we've seen an ethanol plant, so let's proceed now to the New Business this evening and we'll, the first variance request. Go ahead, Bryant.

Niehoff: Absolutely. This is for BZA 2018-11A and this request is from POET Bio-refining. The petitioner's representative is Mary (?). The address of the property and (?), excuse me. The address of the property is 2373W 300N. The subject property zoning classification is IG, general industrial and the action requested this evening is approval of actually 6 development

standards variances, but the first that we will hear is from UDO 5.03 the accessory structure standards.

Schwickrath: Okay, thank you. Petitioner would please come forward to the mike. State your name for the record. Good evening.

Ron Steffen: Good evening. Ron Steffen(?), POET Design and Construction.

Schwickrath: Steffen you said? Mr. Steffen?

Steffen: Yes.

Schwickrath: Okay. Okay, so please tell us about the your first request which is about the accessory structures standards to exceed the maximum allowed.

Steffen: So yes so exceeding the maximum number of accessory structures. So why granting the request for a development standard variance will not be harmful to the public health, safety and general welfare of the city of Shelbyville. So I guess to approach the topic, POET Bio-refining currently operates 4 of these facilities within the state of Indiana without incident.

(?): Inaudible comment.

Schwickrath: Can everyone.....?

(?): Inaudible comment.

Schwickrath: Yes, okay.

(?): We can't hear you.

Schwickrath: Thank you. I was just going to ask the same thing.

Steffen: How's that? Better?

(?): Better.

Steffen: Okay so just to approach the subject; POET Bio-refining currently operates 4 ethanol plants in the state of Indiana. Speaking specifically to exceeding maximum number of accessory structures, the current variance that we're requesting is to basically allow, we need that many structures. The current statute states that is very limiting and we just we can't quite get under that number of structures.

Schwickrath: For this particular kind of facility?

Steffen: Correct.

Schwickrath: Right, okay. Okay, thank you.

(?): Inaudible comment

Schwickrath: The beginning part? So this first variance

(?): Inaudible comment.

Schwickrath: Maybe I can re-cap it. This first variance is a request for a development standard to exceed the normal or the maximum number of buildings. They're requesting this because of the type of the facility that they want to install. So for an ethanol plant, there is a need for more than what our ordinance allows. Is that clear?

Inaudible reply.

Schwickrath: Okay, thank you.

Steffen: Thank you.

Schwickrath: Alright, so we will now take questions from the board and I'll start with Mr. Cassidy.

Doug Cassidy: I have no questions.

Schwickrath: Okay, thank you. Mr. Clark?

Chris Clark: I have no questions right now on this one.

Schwickrath: Okay. Alright, thank you. Mr. Lisher?

Jim Lisher: I have a few questions just perhaps not only for the applicant, but perhaps the audience. Currently our....

Schwickrath: Can you hear Mr. Lisher?

(?): No.

Lisher: I have a few questions more for perhaps the audience than for the applicant, but I do want the answers. Our current zoning allows for 5 accessory structures and you're asking for there to be more than 5, correct?

Steffen: Yes.

Lisher: And you're indicating to us that the reason you need more than 5 is due to the number of storage silos and exhaust stacks that are required in your processing at your plant?

Steffen: Storage silos, correct. Exhaust silos, no. We have a number of accessory structures throughout the facility such as water tower, grains receiving building, several different buildings as part of that. But yes, we would have one particular stack.

Lisher: So how many storage silos do you envision needing?

Steffen: Storage silos for grain, we'll have 5.

Lisher: And that again, your answer was that was to store the grain, particularly corn, ready to be processed?

Steffen: Yes, sir.

Lisher: That's all the questions I have.

Schwickrath: Okay thank you, Mr. Lisher. I have no questions about this given what I researched online and so Bryant, I don't know if there's anything further you wish to add before you open this to the public?

Niehoff: Inaudible reply.

Schwickrath: Okay. So at this time, I will close questions from the board and invite anyone from the public who wishes to speak or ask a question on behalf of this particular variance, you are welcome to do that.

Lisher: You need, yeah kind of step aside, so.....a little so that they can come up if they wish.

Schwickrath: That's fine. You'll be back and forth. On the first variance, okay you're welcome to come forward. Please state your name for the record. Our minutes are transcribed.

Tammy Carte: My name is Tammy Carte and I just had a question is if there were less than if it was adhered to the 5 storage buildings would it present any type of safety hazards or any detrimental concerns for the community? Is there like a timeframe that the product needs to be stored before it can be processed to the next phase or the next step? I'm not real familiar with this, so I'm, the questions I ask I'm just gonna ask 'cause I don't....

Schwickrath: Thank you. These are actually very important questions that we were asking ourselves in our pre-meeting, so I think Mr. Steffen can answer that. Thank you.

Steffen: Yes, thank you for that question. My guess in short, it would be impossible to build our facility with 5 or less structures.

Schwickrath: What is the, I know I'm not supposed to ask questions, but this is more for information. Is it 162 acres? What is the acreage out there?

Niehoff: 145.

Steffen: Yes, we're (?) 145.

Schwickrath: That might help. Just it's immense, basically.

Niehoff: Yes. Oh yeah.

Schwickrath: Would anyone else wish to ask a question?

Lisher: On the first variance.

Inaudible mumbling among board members; no one is clearly audible.

(?): I have several questions to ask.

Yes, just please state your name for the record.

Michelle Miller: My name's Michelle Miller and I live on 300N. There is several questions that I have to ask and I don't know in the proper order to ask them and when you're talking about variance, so forgive me if it's not exactly correct.

Schwickrath: This first one has to do specifically with the number of buildings that they wish exceeding. Do you have a question related to that specifically?

Miller: Yes. And what is the number of buildings that you guys allow at this time for an ethanol plant in Shelby County?

Steffen: 5

Schwickrath: Well go...

Niehoff: Yes, it's.....

Schwickrath: Yes Bryant, go ahead.

Niehoff: If I may answer that question. Yes so we designate the number of accessory structures and the height of structures, all of those development standards per zoning district, not per project as they come in. So the zoning district that the subject property is zoned is IG, general industrial. In that zoning district, there's a maximum of 5 accessory structures...(inaudible)....So whether that were a foundry or an ethanol plant, it would hold to the same standard.

Miller: Okay.

Niehoff: And that's why they're before us tonight.

Miller: Okay. As far as the structures itself, does this also include just the buildings or is it also including the railyard that needs to go in there? Or is there going to be? Or is that another variance?

Schwickrath: Did you say a railyard?

Miller: Uh huh, tapping into the railyard.

Niehoff: That is not a part of the requested variance for accessory structures. So just the buildings that they're proposing. By structures, we define a rail spur or a railway doesn't(?) classify as a structure.

Miller: So is that another conversation, a variance that will be discussed tonight?

Schwickrath: No, actually it will not. The actual, the railroad spur will not be part of this tonight.

Miller: Okay so it'll be a future conversation?

Schwickrath: I'm not sure that I know the answer to that only because.....

Niehoff: That's not designated by zoning and zoning doesn't have the authority of whether a railway spur may exist or may not exist just pertinent to the number of structures on the site there.

Miller: Okay.

Schwickrath: Thank you.

John Hill: John Hill. So just had a couple questions. You mentioned the storage of grain; what about finished products? Is that gonna be stored on site as well, produced ethanol? Anticipating a tank farm?

No audible reply.

Hill: Okay so you mentioned a minimum a maximum currently of 5 structures. How many structures do you anticipate? And then of those, how many do you consider might be holding finished product and how much do you anticipate that'll hold?

Schwickrath: Go ahead, Mr. Steffen.

Lisher: And go by the microphone.

Schwickrath: That's fine. Yeah it's fine back and forth and just adjust it so you don't have to lean down.

Steffen: Sure. Currently, we would have 5 tanks on site that'll hold finished product, specifically 2 tanks. Each tank being 2 million gallons of ethanol. The 3 other tanks I mentioned hold denaturant(?) which is basically a low grade gasoline that we mix with the alcohol before transporting it across state lines.

Schwickrath: Thank you. Thank you Mr. Hill.

Hill: Just a couple of(inaudible)....finish out.

Schwickrath: No, please go ahead.

Hill: So of those finished product, how many gallons of flammable product do you anticipate might be on site in any given time?

Schwickrath: Can everyone hear him?

Several people answered no.

Hill: How many gallons of flammable product do you anticipate might be on site at any point in time (?) the buildings that go above and beyond the 5 that are currently allowed? I mean if you kind of an aggregate, how many flammable gallons of product are gonna be there? Is that a fair question given the zoning and we're talking about the extra buildings, so.....

Schwickrath: I think so.

Hill: Okay.

Schwickrath: Can you address that? Or give us a ballpark figure? I think what everyone's doing is what I did and I had to do this yesterday which I simply had to educate myself in a short period of time not understanding and trying to or my objective was to be objective. And so and to understand this and I think that's where a lot of questions are. I don't wanna speak for the public, but....

Steffen: Uh huh.

Schwickrath: So any information that may seem redundant, I think we need to hear.

Steffen: Sure.

Schwickrath: These are good questions. Thank you.

Steffen: No, I appreciate that and again, we do this quite often as far as deal with ethanol plants and the such....

Schwickrath: Sure.

Steffen:so I take a little bit of that for granted. Like I had mentioned, we have 2 finished product tanks basically in the tank farm that include 2 million gallons of flammable liquid each. As far as other vessels that contain flammable liquid, there are several within distillation. Basically how we classify those is less of a tank and more of a wide spot in a pipe because it is part of a process. It's not stored there. So that product is constantly in motion from the time we initially distill it through the rest of the process and then ultimately store it into those storage tanks. So our max capacity for holding ethanol is 4 million gallons. Now very rarely are we at max capacity because we are loading out those gallons via truck and rail consistently.

Schwickrath: Thank you. Anything else, Mr. Hill?

Hill: Last question.

Schwickrath: Sure. That's fine.

Hill: I mean given that there are other sites, is your anticipated danger radius that you normally I mean consider given the flammable nature of the product?

(?): We cannot hear....(inaudible)....

Hill: I'm sorry. Is there a standard danger radius that you'd anticipate you know from an oil(?) ethanol refinery given you know several million gallons of flammable liquid on site? Since we live close, I just have to ask. And since it's relevant to the extra buildings.....

Schwickrath: And public safety, yes. Yes.

Hill: Okay.

Steffen: That is a consideration, absolutely. We are governed by a local and state ordinances and we comply with those.

Hill: Inaudible comment.

Schwickrath: So Mr. Hill is asking what would that radius be for safety. What are thecan you answer that? Go ahead.

Niehoff: From a fire protection standpoint? I can't answer that from, let me just from....

Schwickrath: Am I correct, Mr. Hill? Is that what you're asking?

Hill: Yeah....(inaudible)...

Niehoff: And what the response rates are? Is that what the question is?

Schwickrath: So remember too that the casino is beyond the location of what where POET wishes to place their facility. So I would think the response time would be at least the same as for the casino and that has been deemed as what, responsible or

Niehoff: Sure and

Schwickrath:within standards?

Niehoff: I mean I don't work for the fire department nor am I a fire safety personnel. But you know the fire department is involved as these projects move forward. We do have the Technical Review Committee where we engage all city departments for any issues that may come up with development projects and the fire department's been involved every step. So from my experiences in that purview, there have been no issues or expressed concerns on their end for the fire safety of this particular development.

Hill(?): Inaudible comment.

Schwickrath: Sure. I think you said that last time, but that's okay. Just make sure everyone can hear you.

Hill: Just I mean I have had involved in an oil refinery and recently we did have a disaster at one of the sites, so I mean it's relevant to the extra buildings that are on site. And I was just

wondering, is there a standard evacuation radius that one would anticipate surrounding that given the extra buildings that are holding the flammable liquid? Is that a fair question?

Schwickrath: I think so. Mr. Steffen, can you....

Hill: Not necessarily the response time of the fire department.....

Schwickrath: And again, I'm (?) too.

Hill:'cause I know there's separate suppression and different chemicals and things that are used in that environment. A lot of time on-site fire departments do assist, but that may or may not negate the radius of danger and I just wanna try to get a feel for what that would be if there were more than 5 buildings on site holding flammable liquid, so.....

Schwickrath: Thank you.

Hill: Then I'll sit.

Schwickrath: Okay, that's fine. Thank you.

Steffen: I believe those variances depend on state to state, so if you were to take an example of where we're at and four other locations in Indiana right now, we're much closer to any what I would call structures than we are currently. As Bryant described, (?) we do go through the process or part of the permitting process for those people that are unaware, we go through with the Indiana Department of Homeland Security. They also, that's how we go through our permitting process. That ultimately goes to the city of Shelbyville before any building permits are issued. That also goes through the state fire marshal's department. So they really dictate to us what that needs to be.

Schwickrath: Thank you.

(?):(inaudible)....only question we can make a comment about?

Schwickrath: You may make a comment. Just please state your name for the record and speak into the mike.

(?): My name's (?) and this(inaudible)....that was proposed a while back to build Tom Hession Drive and there was rezoned a (?) including this piece of land. And when zoning came up back then, it was mentioned that the zoning that was being put in place was to prevent something like this from coming through. That we do not need five buildings plus extra because there were families in that area. There was agriculture and there were homes. I sat in this room when that was discussed. So when asked do we need to add more than 5 buildings to this area, I would go back to the minutes and re-read them from when those discussions

took place when we took it from agricultural to the industrial zoning and said that no, this was supposed to be, at the time, the discussion was this was going to be agri-tourism. This gonna be small, local sized business that would develop along Tom Hession and then the development that was supposed to continue south which has now been delayed. Those promises were made and some of those expect those promises to be kept. And building 5 buildings, I wouldn't be (?). Building however many buildings, that was a ten year old promise that's being broken if this passes. So....

Schwickrath: So unfortunately I was not at that meeting, so I don't know and I'm not disagreeing with what you're saying. I think that Tom Hession Drive was built and then it just sat. And so opportunities have come and gone perhaps and so I and again, I'm not in a position to control that. I....

(?): The people who were here at the time, who approved it, set the zoning criteria for this reason, for(inaudible)....to show that that somebody brought up at the time, well what if a big confined hog operation wanted to come into that area and it was said the zoning would not allow for that. We asked if an ethanol factory would....(inaudible)....and this is where the zoning comes in. We build (?) based on how things are zoned. So you don't build homes and then expect the zoning to radically change. This is not a small change. If we were talking a small change, I think most people want Shelbyville to develop. I mean I want my property value to go up, but there's nothing about this that's along with what I don't know if it was nine or ten years ago. I know Mr. Niehoff was probably in my high school at the time and one of my students. Okay? And at that time, I had no problem with it. I actually was quite excited about it, but there was a reason the people at the time said this is the zoning. We're gonna protect the people who have been in this county for 20, 30, 40 years who have lived in that area. And to build more than five buildings is to go against that decision that was made many years ago.

Lisher: Madam chairperson?

Schwickrath: Yes?

Lisher: We're meeting today on a project involving land which originally was in the county, still is in the county but the county has allowed the city to act

Schwickrath: Yes.

Lisher:on behalf of enforcement of its ordinance.

(?): Which was(inaudible)...what happened with the TIF with the building of the road too was that the county turned it over to the city.

Schwickrath: To the city, uh huh.

Lisher: I guess my point was I'm not sure the city was necessarily....

Schwickrath: Involved in that.

Lisher:the Board of Zoning Appeals was involved in any of those decisions.

Schwickrath: No. So it's I appreciate your point and I don't I'm trying, what we're, I just have to now just focus then on understanding and mitigating this the best that I can or the best that we can. And so I can't speak to that. It's ten years later.

(?): We're promised things by politicians all the time.

Schwickrath: Yes.

(?): And when new politicians come in....(inaudible)....to those promises and neighbors have to make, have to decide what they're going to do about that.

Schwickrath: Do you....(inaudible)...

(?): I know that, but there are people who appoint who are. There are people who you know very well there are paths.

Schwickrath: I think the point here that's important to make is that there are many layers. This is not meant to be consolation but just simply to understand the process, that there are many layers that have gone into this. And so I know that we hear about the explosions at ethanol plants or when the ethanol is transported for example. I mean these are things that occur. I'm not saying, I just wanna be as neutral as possible here and I'm saying.....

(?): I agree that Shelby County has a plan commission for a reason. Same reason Carmel has a planning commission and they go after tourism. They go after Westfield (?) great baseball facilities. They do have a quality of life where they are and this is one of the best building areas in Shelbyville. There are tons of opportunities and people(inaudible)....on our street every time there's a home for sale, it sells in minutes. That will change this this. That will change with a building that has unlimited number of, not unlimited. I'm sure there's a limit, but way more than what it's currently zoned for, way more than what it was intended, way more than what the people who originally said here's what we're gonna do with that land to make sure that it still has quality of life ever included for it to have. I just wanted to make a comment. I appreciate your time.

Schwickrath: Thank you.

Lynn Hally(?): Lynn Hally(?). I have big safety concerns 'cause you said the wave is five miles? Or wasI thought I heard five miles. I mean there's a potential for this to blow. You know, it's

happened in other communities. I'm not for sure what your track record is for POET, but it has happened. These have exploded and that can be detrimental to the infrastructure. 74 has the casino involved with this because if that thing would blow, that's probably about, less than a mile from the casino. That could be major destruction to the casino.

Schwickrath: There's an airport, yes.

Hally: An airport, national guard facility.

(?): Hospital.

Hally: Hospital, yeah. I mean railroads. We're talking major, major infrastructure damage if that thing would blow and they have been known to explode.

Schwickrath: Thank you.

Michelle Miller: Michelle Miller. What water source is gonna be utilized to maintain these buildings for them to run?

Schwickrath: Okay, can you answer that?

Lisher: What does that have to do with the number of buildings?

Schwickrath: It doesn't.

Clark: It does.

Schwickrath: It does?

Clark: Sure.

Several people talking at once; no one is clearly audible.

Miller: So for the buildings, for the machinery to run, the water has nothing to do with it? It's not gonna use any water or the river below our property?

Schwickrath: Mr. Steffen, can you address that about water use? Yeah that was another question that came up. I think there was a call to your office about water table and the runoff of water. If you can please explain that and then I would like to wrap up questions on variance number one. Go ahead please.

Steffen: Sure. The use of water basically will be city water. We'll draw off the city water line. We will not have wells or draw specifically the water table down underneath our property or anyone surrounding our property.

Schwickrath: Thank you. That's a good question.

(?): Inaudible comment.

Schwickrath: Yes, please?

Doug Sutherland: Doug Sutherland. Do you know how many buildings you're gonna have to have for this? 'Cause right now it's just over five, am I right? That's what you're asking for?

Schwickrath: And unfortunately, these are good questions and I did not do awe should do a building count, right Mr. Clark?

Clark: Yes. He's got the numbers.

Steffen: Yeah I think as we get into the probably present itself a little more clearly, but when we talk about accessory versus primary building structures, primary building structures, we only have five, five buildings. Accessory structures are what we call like a grain bin (?) and so if we have five buildings and we have five grain bins, then we have ten structures on site which is over the variance. So technically speaking, there's only five buildings on this site.

Schwickrath: Thank you.

Terry Reed(?): Terry Reed. We do live on a (?) fault line.....(inaudible)....So I would be interested in the blast radius because when we(inaudible)....it's 18 miles from my house, I felt it at my house. So I wanna know what the blast radius is because as the crow flies, I'm not that far from this and most of the south end of Shelbyville if it's five miles could be taken in. So

Schwickrath: Is this....

Reed: Well if this is(inaudible)....if we had a earthquake, which we have had them and we are on a major fault line could be extremely catastrophic.

Schwickrath: Thank you. I was writing down that blast radiance. I wanted to keep that phrase. Can you address that too? I'm not sure about I don't know, I would say major fault line, but that we are on a fault line. Go ahead.

Inaudible mumbling among board members.

Schwickrath: Go ahead.

Steffen: That is not information that I have to provide tonight.

Schwickrath: I think it's something that we could add to....you may hear it in the next meeting.

Niehoff: Yeah. Yeah I mean and I certainly I mean yes, thank you for saying that. I think that's certainly more appropriate some of these questions for the Plan Commission meeting.

Schwickrath: Right. Okay.

Niehoff: And again, the BZA is here to listen to six very specific development standards variances that are being requested. So you know concerns about public safety should be directed towards the Plan Commission.

Schwickrath: Okay, thank you. I wasgo ahead.

Tammy Carte: I'm Tammy Carte again and I'm sitting and I'm listening carefully to the things that all the people are saying and safety is an absolute top priority. And this city has progressed and will continue progress as long as it maintains its obedience to the laws of God. There are families that are here, but keep in mind these people from POET, they have families too. They're concerned about safety also. We may not understand everything that's going on, but God knows all things. And to keep in mind one thing, there's already businesses that have flammable products stored within their businesses. So I think we should get past the nitpicking and look more deeply at what we're really talking about here.

Schwickrath: And as Bryant said, a lot of these questions can be addressed in the meeting after the Board of Zoning Appeals. Thank you for these comments. Anyone else wish to speak about the first variance?

Alberta(?) Sutherland: Alberta Sutherland. I'm actually asking a question for somebody that couldn't be here tonight and she wanted me to ask why the rush? Why is it set for a Board of Zoning Appeals hearing and a Plan Commission hearing on the same night? Not necessarily bad, but it does seem unusual.

Schwickrath: It is unusual and this is a special meeting and it's a good question. Thank you. And I'll address that now. In order to accommodate also the petitioner who lives in South Dakota, so we combined the meetings. Tonight is a normal meeting for the Plan Commission and the BZA needs to do its work with these variances in order for the Plan Commission then to proceed. So it does seem rushed. I agree. A lot of this information was given to us within the last couple of weeks and so I've had to study what ethanol production actually means. But I think I would like to proceed. I'm watching the time, but I don't wanna rush, but I don't wanna go too slowly. But I think it's time now to move on at least to wrap up this first variance.

Would anyone else wish to speak about the first one? And your explanation, Mr. Steffen, about five buildings and then the other ones are outbuildings I think clarifies things. Anyone else?

No reply.

Schwickrath: Okay so public comment is now closed for the first variance and any other questions from the board members before we move to a motion?

Clark: One question; how many of the buildings or accessory structures are for safety use?

Steffen: Specifically for safety use, I would say that as part of our emergency action plan, one. And that would be for tornadoes and things of that nature.

Clark: Okay, thank you.

Schwickrath: Thank you. Any other questions? Ready to move to a motion?

No audible reply.

Schwickrath: I'll entertain a motion then for BZA 2018-11A.

Lisher: Madam chairperson, I would move to approve the variance from UDO 5.03, general accessory structure standards to allow exceeding the maximum number pursuant to the Findings of Facts including presented by the board.

Schwickrath: Okay there's a motion.

Inaudible mumbling.

Schwickrath: The motion is to allow for the let me get the language here, general accessory structure standards to allow for to exceed the minimum allowed. There's a motion.

Cassidy: Second.

Schwickrath: Okay please cast your votes then for 2018-11A.

Niehoff: This is for BZA 2018-11A. Mr. Cassidy – yes, Mr. Lisher – yes, Mr. Clark – no, Miss Schwickrath – yes.

Schwickrath: Okay so the vote carries. Okay so now let's move on to the next variance, item B which go ahead, yes Bryant.

Niehoff: This is for BZA 2018-11B and this is a requested variance from UDO 2.2A the IL district, excuse me IG district development standards the height of primary and accessory structures and exceeding those maximum heights prescribed in the ordinance.

Schwickrath: Mr. Steffen, can you add anything further to that to this one, the second one, item B, the height?

Steffen: Yes, so of the five primary structures on site, only one exceeds the I guess for everyone's clarity, only one exceeds the ordinance as it stands.

Schwickrath: Okay, thank you. Mr. Cassidy, any questions?

Cassidy: We talked about in the pre-meeting that's almost in line with some of the runways at the airport. If you leave, you will take that building down.

Schwickrath: We're concerned if the plant, for example goes belly-up for lack of a better word or electricity takes over, that an ethanol for whatever reason is no longer produced, widely used or produced, that we have some control over removing the stack so it's not just standing there for perpetuity. That, I think that, am I saying that correctly?

Clark: Inaudible comment.

Schwickrath: Excuse me?

Clark: There is more than one structure that goes above this.

Steffen: Yeah if I can address that. Specifically to the variance that we're talking about right now would be a primary structure. So that is not the stack. That is actually a building that's currently 90' to the eave height. As part of our permitting process with the state and the Department of Homeland Security, we also submit permits to the FAA with our highest points in proximity to the airport and they deem that appropriate or not and that is currently under review with them.

Schwickrath: Okay so that's under review?

Steffen: Yes.

Niehoff: For clarification's sake, this requested variance, 2018-11B is for both primary and accessory structures from the height standards in its entirety. So we can talk about the primary structures versus the accessory structures but it is one variance. So the vote that will take place is for the height of all structures.

Schwickrath: Of all structures? Okay.

Steffen: Okay. Sorry about that. I was looking at two different Findings of Fact here, so....

Schwickrath: Mr. Clark?

Clark: How many buildings is it, is it 40' that the that is the what the UDO calls for?

Niehoff: It is 60' primary structures.

Clark: 60 for primary structures?

Niehoff: Yes.

Clark: Can you tell me how many....

Niehoff: I can look up for the accessory structures.

Clark: Can you tell me how many exceed that, exceed the'cause I see two of 'em under the building information that shows it 81' and 72'.

Steffen: So of the five structures, one has many different eave heights and the highest eave height there would be 81' which is distillation. So one of the five buildings.

Clark: Okay and of the accessory structures, I see many, many that exceed the.....

Steffen: Yeah so of the accessory structures, specifically two are gonna be the highest points. One will be the RTO stack or regenerative thermal oxidizer stack. That's at roughly 100'. And then the top of the grain (?) which you're familiar with that feed the grain bins, those are at roughly a 140.

Clark: Okay, thank you.

Schwickrath: Thank you. Mr. Lisher?

Lisher: I don't have any questions.

Schwickrath: No questions on this? Okay. Anything further?

No audible reply.

Schwickrath: Okay I don't have any questions. At this time, I will close questions from the board and open questions on this variance to the public. This is the second variance about the height exceeding the ordinances.

Niehoff: If I may add, Ms. Chairman. The maximum height for accessory structures in the(inaudible)....

Schwickrath: Okay, thank you.

Clark: Inaudible comment.

Schwickrath: Will exceed height. Okay.

Niehoff: Well and that's for the purpose of the use for their proposing the grain silos, the storage you know type of structures. What this zoning district was designed for was under a different set of circumstances and

Schwickrath: Sure.

Niehoff:(?) use really had come about. That's why....

Schwickrath: Shelby County does not....

Niehoff:(inaudible)....

Schwickrath: Sorry about that. I mean Shelby County simply does not have this kind of facility although I'm thinking Bunge which is in Morristown. That might give us an idea of the scope. Is there anyone wish to speak from the public on this second variance?

Tammy Carte: Tammy Carte and just a question on.....

(?): We cannot hear you.

Carte: (?). Just a question. Is there a specific purpose for the height to reach those levels in the work that you do?

Steffen: So as it relates to what we've spoken about distillation for example, the distillation columns(inaudible)....there is certain amount of gravity feed in the process that's required to allow the process to happen. When you're talking about roughly 75 million gallons of production per year, that's quite a bit of daily production, so those distillation columns require that height. As it relates to the other areas of the plant, specifically grain bins and the grain legs, you know from driving down the interstate or anywhere else, if you see a grain bin or an elevator, it exceeds 25', usually 125' and so to be economical and utilize existing equipment i.e. grain storage bins that they currently make, it's a requirement to go above that.

Schwickrath: I'm assuming that these are industry standards and your other facilities in Indiana have similar if not exactly the same footprint?

Steffen: Yes, ma'am. So the specific grain bins that we're talking about right now for the plant proposed in Shelbyville are an exact replica of what we have in Alexandria, Portland(?), North Manchester and Cloverdale.

Schwickrath: The other four facilities in the state?

Steffen: Yes.

Schwickrath: Okay, thank you. Would anyone else wish to speak about variance number 2 or letter B?

No reply.

Schwickrath: Okay public commentary is now closed and if we are ready, unless the board has more questions, we can move to a motion for the second one.

Clark: I have one more question.

Schwickrath: Mr. Clark?

Clark: Would you be open to a stipulation as what Mr. Cassidy had spoke about should POET Bio-refineries cease operations at your site, should we should you get all of these variances tonight, would you be willing to bring the structures back into compliance to the UDO as it's written today?

Steffen: I don't think I would be prepared to give that answer tonight. However, in the last 30 years, we have expanded our footprint to 28 bio-refineries and also expanded our footprint in the United States. I don't see ethanol going away. However, if that were the case specific to the Shelbyville plant, that would be something I would have to carry forward.

Schwickrath: Okay.

Clark: Thank you.

Schwickrath: Thank you. Anything else?

Clark: No.

Schwickrath: Okay, just checking. You're ready to make a motion? I'll entertain a motion then for BZA 2018-11B.

Cassidy: I would like to make a motion to approve the requested development standard variance to allow relief from the maximum height standard in accordance with the findings presented to this board in the Finding of Fact.

Schwickrath: Thank you. There's a motion.

Lisher: Second.

Schwickrath: Okay please cast your ballot then for again, 2018-11B.

Niehoff: And for verification's sake Mr. Cassidy, was there a condition attached to that?

Cassidy: No.

Niehoff: Okay I didn't believe so.

Schwickrath: I don't think at this time we can do that.

Cassidy: No.

Niehoff: Okay, thank you. This is for BZA 2018-11B. Mr. Cassidy – yes, Mr. Lisher – yes, Mr. Clark – no, Ms. Schwickrath – yes.

Schwickrath: Okay, thank you. The motion carries. Okay the next item is item 11C, the non-residential driveway standards. If you can speak to that please. I'm sorry, you're first.

Niehoff: I have nothing else to add, so no, that's perfect. Thank you.

Schwickrath: Okay. Mr. Steffen, it's letter C.

Steffen: So I think it would be important to state the what the current ordinance is. It's approximately.....

Niehoff: So sorry. Yes, it is 36' in width which is required under our nonresidential driveway standards.

Steffen: Sure so our facilities require quite a bit of traffic as you can imagine by local producers. Nearly 100% of our grain that's brought to site is through truck traffic. We do not rail in corn. So in order to have a queue space or what we would call almost a line-up of trucks that require as trucks scale in and scale out, there's quite a bit of space that's needed for that. This would eliminate trucks needing to be out on the county road trying to get in and out. It's also a

requirement that we have a through lane for fire, health and safety and then also our ethanol trucks that will be taking ethanol out of the facility.

Schwickrath: I have a question. I noticed, okay that makes sense to me. The one thing I would like for you to clarify is the actual movement of the trucks. I did not see or it did not appear to me that it would be easy to make a u-turn once they are in the facility. So please explain that briefly, the movement.

Steffen: Sure. A little difficult without a map. However,

Schwickrath: We have one.

Steffen: Okay.

Schwickrath: Just use this one. It's fine.

Inaudible mumbling.

Steffen: Okay so this is north. As you enter the facility, trucks will come into here. They'll get (?) and then also the grain (?) where we take a sample. The grain trucks specifically will continue south making their way around the southernmost grain bin and then through the grains receiving building and then back north and out and then they'll scale out and leave. The ethanol trucks come in the same route. They do not scale in. They come around here and back out, fill up and then scale out here.

Schwickrath: I see.

Inaudible comment.

(?): Sure. I don't know if I can talk. I'll try here. Okay I'll just speak up. Can everybody hear me okay?

Inaudible comment.

(?): Alright, so this is north. So the trucks will enter from the north heading south. This is a scale house. They would scale in here, keep coming directly south around the southernmost grain bin, head back north through the grains receiving building and then back to the weigh out scale and then out. Ethanol trucks come in the same direction. They turn this way, go around. This is the load out area. This is where they fill up. They head out, scale out and out.

Schwickrath: That's fine. Thank you. Yes so at this time, we'll take questions from the board and then I'll open up to the public. I'll just keep starting with you, Mr. Cassidy.

Cassidy: I have no questions.

Schwickrath: Okay, thank you. Mr. Clark?

Clark: What material is the drive made from?

Steffen: The drive? It's asphalt except the turn-around radius. Those are concrete. So anywhere we have high truck traffic, those are concrete.

Clark: So there'll be no tracking of any kind of stone or dirt onto the

Steffen: No. The entire site's asphalt or concrete which also keeps RPM's down, our particulate matters.

Clark: Thank you.

Schwickrath: Thank you. Mr. Lisher?

Lisher: No questions.

Schwickrath: Okay I will close questions from the board and open this up to the public for comment on this is the third one or letter C, non-residential driveway standards.

Lynn Hally: Lynn Hally, is this appropriate to ask for infrastructure around there?

Inaudible reply.

Hally: No? Okay.

Schwickrath: No. At this time, we're just focused on the actual

Lisher: Entrance.

Schwickrath:the width of it.

Hally: Okay just the width?

Schwickrath: Just the width, yes.

Hally: Will there be an infrastructure talk?

Schwickrath: No.

Niehoff: There will not be.

Schwickrath: Not for the Board of Zoning Appeals.

Hally: Okay. How much truck traffic are we talking about in and out on a 24 hour basis on this driveway?

Schwickrath: Thank you. That's a good question. I was gonna ask that.

Steffen: Yeah it is. It is a good question. So as we will be somewhere in the neighborhood of between 225 and 280 trucks per day. I might that that is not every day.

Schwickrath: Well and then what about 24 hours? Is it a 24 hour operation?

Steffen: Yeah, no. So grains receiving specifically is where the bulk of the trucks come. A plant this size, ethanol trucks you may see maybe two a day. We also, some of those trucks are driving (?) grains which go out to local feed producers in the area. Some are wet cake(?) trucks. Some are corn oil trucks. So but primarily the corn trucks are corn receiving. Depending on the day and time, those trucks usually run, we usually run from about a 6 to 6 schedule. That's not every day depending on who's got contracts and what's going on. That fluctuates as well as harvest. We have roughly seven days storage on site. So depending on you know commodities and things of that nature, that truck traffic goes up and down.

Schwickrath: Thank you.

Steffen: Yeah. So I feel a little bad about throwing the 225-280 out there per day.

Several people talking at once; no one is clearly audible.

Steffen: So it's not, collectively, I don't have a great number for you. If we spread it out across 365 days of which the plant runs 24 hours a day 365 days a year. If we were to do that math, I'd say you're somewhere in that you know 120-160 trucks.

Schwickrath: Thank you.

Cassidy: I....

Schwickrath: We'll come back to the board. It's still public commentary. Anyone else wish to speak on the third variance from the public?

Leslie (?): I'm Leslie (?). Ooo, that's loud. This is more of kind of a comment. We actually lived in Indianapolis (?) why we moved out here because it is a rural area. We bought ten acres so

we could raise our kids in an area where they could run and they could play and this is being taken away from us if this actually pushes through. Thank you.

Lisher: That would be for the Plan Commission.

Schwickrath: Yeah.

Terry New(?): Terry New(?). With(inaudible)...we have some (?) out in that area occasionally like when it rains. So I wanted....(inaudible)...was going to go because if the ditches out there aren't really prepared properly for that massive of a runoff.

Schwickrath: Can you answer that, Mr. Steffen?

Steffen: I can. So as part of this process, we submit a site grading plan not only to the city, but the to the state. So it does sound like we would be decreasing the amount of surface area that water gets absorbed. However, we have a rather large detention pond that is scheduled to be on the western part of the property that holds all of our runoff. The entire property is surrounded by ditches and we do not discharge into any local or any ditch for that matter.

Schwickrath: That's an important point. Thank you. Does anyone else wish to speak on this variance?

Carl Steffler(?): Carl Steffler(?).

Schwickrath: Please state your name.

Steffler: Carl Steffler. I wanna know if a retention pond is lined because that retention pond's sitting on 27' of gravel and solid water. It'll spread out throughout the farms beside it. My house is probably less than a mile away from it and when that pond or that ditch runs level, my basement will have 2' of water in it. Thank you.

Schwickrath: Thank you. Mr. Steffen, I am sure you've had this come up before.

Steffen: The detention pond is not lined.

Schwickrath: It's not lined?

Steffen: I would add that we do not have a detention pond that is lined in 28 other bio-processing facilities either.

Schwickrath: And there have been no there's not been excessive runoff or contamination?

Steffen: No. The water gets tested weekly.

Schwickrath: Right. Okay, thank you.

Steffen: Yeah.

Niehoff: If I may add in regard to drainage of the site, again, that is more of a Plan Commission and I don't know if that's under the Plan Commission's purview. The city engineer sits on the Plan Commission and reviews a drainage report as it's submitted with a site plan. So that meeting will commence at 7:00 whenever this meeting's done.

(?): ...(inaudible)...we have wells. We do not have city water which most of us do not wish to have city water.

Schwickrath: Mr. Steffen did state though that city water is going to be used, not ground water.

(?): Yes, but if there is runoff that goes into the aquifer, it's going to poison all of our wells so if the ...(inaudible)...worried that anything hazardous gets into the retention pond, then it's going to ruin people's wells.

Schwickrath: But if I understood correctly, this has not been an issue. It is tested weekly. IDEM is involved in every part of this and also the containment, I'm assuming, will be within your retention pond. And you said that you have not had a problem with this at other sites.

(?): But is there a department of....

Schwickrath: Environmental Management?

(?): Yes....(inaudible)...and they're track record's 100% with the runoff like with the large cattle places and stuff.

Schwickrath: I have, I agree with all of this. I have limited tools here to work with or these are the tools I have to work with.

Niehoff: Ma'am, again that question is more under the purview of the Plan Commission at this next meeting and we can discuss that in much more detail at that point.

(?): Okay.

Steffen: I will add that the bulk of our process, as a gentleman asked earlier about where our finished product is stored and how much storage we do have. That is within the tank farm and that is bermed and lined.

Schwickrath: Okay, thank you. This is a lot for everyone to understand, so I'm learning as we go. I researched things, but it's this is hard. Okay anyone else wish to speak on this particular variance?

Carte: I would just say that not even considering POET, just considering the homeowners.

Schwickrath: Please state your name again.

Carte: My name is Tammy Carte. Whether we're considering POET in this situation but just considering the homeowners in the situation, when we do have heavy rains and Shelbyville is quite familiar with heavy rains because I drove through the streets of Shelbyville and their floods through the Shelbyville streets and there are floods in the county as well and they do have wells, not city water and there is a safety concern there. But that has absolutely nothing to do with POET themselves. But it's a safety concern about the wells.

Schwickrath: Yes.

Carte: And the floods.

Schwickrath: Thank you. Okay I would like to close public comment on variance this is D?

Niehoff: C

Schwickrath: C, excuse me. Okay I thought we were farther along. Thank you. At this time and Mr. Cassidy, you said you had a question.

Cassidy: How many trucks does that compare to your other locations like Alexandria, Portland or....

Steffen: Roughly the same.

Cassidy: Good enough.

Schwickrath: Thank you. Anything further from the board?

No reply.

Schwickrath: Alright, then looking at the time, I think we need to press on.

Lisher: Madame chairwoman, I'd move to approve 2018-11C variance from UDO 5.....

Schwickrath: They can't hear you. Just the language. It's okay.

Lisher: I move to approve 2018 – 11C variance from UDO 5.15(?) non-residential driveway standards proposed with the driveway exceeds maximum width pursuant to the proposed Findings of Fact in conclusion presented by the staff.

Schwickrath: Thank you. There is a motion.

Cassidy: Second.

Schwickrath: Okay please cast your ballot for 2018-11C.

Niehoff: Thank you. BZA 2018-11C; Mr. Cassidy – yes, Mr. Lisher – yes, Mr. Clark – yes and Ms. Schwickrath – yes.

Schwickrath: Okay thank you. The motion is approved. Moving on to the fourth item, item D. This is the industrial and or fencing.

Niehoff: Yes and to add, the petitioner is requesting to is proposing a fence in the front yard. UDO 5.20A prohibits fences in the front yard per the development standards.

Schwickrath: Sure. Thank you. Mr. Steffen?

Steffen: Yes as he stated, we typically would have a fence in the front of the property for security purposes. It also helps during construction purposes to have a barrier for blowing debris so we ask that you grant that variance.

Scwhickrath: I....go ahead.

Steffen: I would add for those people that haven't had the ability to look at the fence, this isn't a large you know 8' tall chain link, barbed wire prison fence. It's it your standard 5 wire fence.

Schwickrath: Thank you. The, I'm sure you have seen the staff recommendation that the fence be installed at least 50' back from the road. What do you think of that? You've had....I'm assuming you've had a chance to look at that?

Steffen: Yes Ma'am, we have no exception with that.

Schwickrath: You have no exception with that?

Steffen: We take no exception with that.

Schwickrath: Okay, thank you. So that would be a condition that we would add to that. Alright, I'll start with you again, Mr. Cassidy.

Cassidy: Your fence'll go in before you start construction then?

Steffen: It will go in before we finish our civil construction, correct. We really don't generate any debris during civil work.

Cassidy: Okay. Thank you.

Schwickrath: Thank you. Okay, thank you. Mr. Clark?

Clark: No questions.

Schwickrath: Mr. Lisher?

Lisher: It's my understanding that the Department of Homeland Security is the one that requested the fencing as well as video surveillance, is that correct?

Steffen: They do request video surveillance. We did approach them on the need for a security gate itself. They said with security cameras, we did not need to provide a gate.

Lisher: Okay. That's all the questions I had.

Schwickrath: Okay, thank you. I'll close questions from the board at this time. If anyone from the public wishes to speak about this particular variance, which is the fourth one or letter D, about the fencing.

Miller: Michelle Miller. Do the other four locations have fences? And if not, why is the purpose of this location to have a fence?

Steffen: Good questions. All four other locations do have fences and gates. This one will not have a that we're proposing not to have a gate 'cause those gates are.....

Schwickrath: Because you'll have surveillance.

Steffen: 'Cause we'll have surveillance and they're the gates are rarely used.

Schwickrath: Okay, thank you. Does that answer your question?

No audible reply.

Schwickrath: Anyone else?

No reply.

Schwickrath: Alright then I'll close public comment on this variance D. Further questions from the board?

No reply.

Schwickrath: Okay then I will entertain a motion then for 11-D on the fence with the condition that's been added.

Cassidy: I'd like to make a motion to approve the requested development standard variance to allow a fence to be placed in the front yard with the condition it's 50' setback.

Lisher: I would second.

Schwickrath: Okay, thank you. Please cast your ballot then for 2018-11D.

Niehoff: This is for BZA 2018-11D. Mr. Cassidy – yes, Mr. Lisher – yes, Mr. Clark – yes and Miss Schwickrath – yes.

Schwickrath: So the motion is approved. We have two more. Letter E, this one I think Bryant, I'm gonna leave to you to explain.

Niehoff: Yes absolutely.

Schwickrath: Okay.

Niehoff: This is BZA 2018-11E and in this variance the petitioner is requesting relief from the setback standards, UDO 5.55H. There's the setback that is required from the edge of a flood hazard area.

Schwickrath: Okay, thank you. If you could add to that please.

Steffen: Yes so since we initially asked for this variance we have since been in contact with the State of Indiana, the Corps of Engineers, etc. and been and worked on our civil design. So basically currently we are out of the floodway and we are working on finalizing the paperwork to submit to the City of Shelbyville showing exactly where we are from a structure standpoint in the floodplain. We are aware of it.

Schwickrath: Okay, thank you. That addresses then the condition that the staff has placed upon you to provide either a floodplain analysis, is that right?

Steffen: Yes.

Schwickrath: Okay.

Steffen: Which we have done. We will, the paperwork is not finalized on that specifically yet, but as soon as it is we will submit that.

Schwickrath: Okay, thank you. Questions from the board; Mr. Cassidy?

Cassidy: None.

Schwickrath: None for this? Mr. Clark?

Clark: No.

Schwickrath: Okay, thank you. Mr. Lisher?

Lisher: No.

Schwickrath: Nor do I. It's pretty clear here. So I will close questions from the board. If anyone wishes to step forward from the public and ask a question about the setback standards/edge of a flood hazard area. So that report is pending, yes. For approval I should say.

No reply.

Schwickrath: No questions on this one? Mr. Carmony, I thought you were standing up. Okay that was a false alarm. Thank you. Alright I'll close public comment on this is the, I've lost count, the fifth one.

Niehoff: This is D, yes.

Schwickrath: This is D. Not D, E?

Niehoff: E, excuse me. My apologies; E.

Schwickrath: Okay.

Lisher: We can still ask for the approval though of the staff just to make sure that occurs, correct?

Schwickrath: Correct, yes.

Lisher: Madame chairperson, I would move to approve 2018-11E variance from the UDO 5.55H setback standards involving setback (?) of a flood hazard area with the provision that it meet

the approval, applicant must either present a flood plain analysis regulatory assessment FARA or a letter of map amendment LLMA to the staff for approval.

Schwickrath: Thank you; there's a motion.

Cassidy: Second.

Schwickrath: Okay please cast your ballot for 2018-11E.

Lisher: Oh I forgot to (?) my printed part.

Niehoff: This is for BZA 2018-11E. Mr. Cassidy....

Schwickrath: Did not vote.

Niehoff:did not vote.

Schwickrath: You missed voting.

Cassidy: Goodness gracious.

Niehoff: Mr. Lisher – yes, Mr. Cassidy – yes, Mr. Clark – no and Miss Schwickrath – yes. Motion carries.

Schwickrath: The motion carries. The final item for the Board of Zoning Appeals tonight then is buffer yard landscaping standards. Okay?

Niehoff: So this is BZA 2018-11F and the petitioner is requesting a variance from UDO 5.36 which is our buffer yard landscaping standards.

Schwickrath: Mr. Steffen?

Steffen: The reason we're requesting a variance is roughly due to the size of the property. At 145 acres, we've got almost a half a mile of fence on the east and west sides that it gets, it's pretty significant when you start talking about adding trees to that distance.

Schwickrath: Thank you. Can you please describe exactly then how each side will look? I know about the fence, but the southern portion will be the actual railroad track, is that right?

Steffen: Yeah. Yes it is and that's entirely wooded right now and then a large portion of the west side is has trees on it as well. Typically at our other plants, we do do the buffer yard or landscaping in the front on the road. However if we're adjacent to a farm field, we would not do it on that side, specifically the east side of this plat.

Schwickrath: Okay, thank you. Are you aware of the staff recommendations that we provide relief for you along the southern property line but that you still have plantings along the eastern and western property lines?

Steffen: I am aware of those.

Schwickrath: Thank you. Alright I'll take questions from the board. Mr. Cassidy?

Cassidy: No questions.

Schwickrath: Okay, thank you. Mr. Clark?

Clark: No questions.

Schwickrath: Mr. Lisher?

Lisher: Sir, I have a question about the why we cannot do some landscaping along 300N?

Steffen: As I had mentioned I don't I take no exception to doing the buffer yard on 300N. It's just the entirety of the east and west sides.

Lisher: So you will be putting in landscaping on 300N on the north side of the project?

Steffen: We take no exception to doing that.

Lisher: Pardon?

Niehoff: There's no requirement in the ordinance that they do as such.

Lisher: I'm asking if he's going to do it.

Niehoff: But yes in the landscaping plan that was submitted, there are no landscaping materials shown in that area.

Lisher: So would you object if we had as a requirement that you have some landscaping along 300N?

Steffen: I think if we were to receive relief on the east and west side, that would not object to anything on the requirement, the buffer yard requirements along 300N or around the primary structures as called out in the recommendations.

Schwickrath: You said on the east side that you would not put plantings in because it's next to a farm field, is that right?

Steffen: Correct.

Schwickrath: Thank you. What is the reasoning for that is because it's farmland?

Steffen: It's farmland and it's yeah roughly a half a mile long.

Schwickrath: Okay. And the objection to the west side is again because of the length of it?

Steffen: Yes. To be honest, a large portion of that already has trees to which I don't know if they've been taken into account for the credit.

Schwickrath: Okay. And Bryant, can you answer that?

Niehoff: They could be if they're counted towards the buffer yard. They're taking into consideration the existing trees that are on the north side of the property for their site plantings. They're required just throughout the site. The buffer yard standards are separate from that requirement though.

Schwickrath: Right, okay. Thank you.

Niehoff: So you could count, to answer your question, the tree line on the west side of the property could count towards your property yard requirement along the west side if that's what the BZA would choose to do.

Schwickrath: Mr. Lisher, what do you think of that?

Lisher: Well I'd still like to see some landscaping along the area that the public gets to see which is basically 300N and particularly perhaps accenting that entrance and exit from the property. That's my opinion and my hope that you might accept the recommendation as part of this granting of this exception.

Schwickrath: Does everyone understand what we're talking about right now? The actual buffer yard landscaping? This is when we start to count trees and bushes and people sort of look at us funny. But that's what we're talking about right now. We'll....let me just close questions from the board. Anything further from us?

No reply.

Schwickrath: Okay and so I'll close questions from the board and open this up to the public. You had a question. Step forward to the mike please and again, state your name.

Sheffler: Carl Sheffler. We own the property on the west side of the site. There has been fence removed and all the grubs and everything taken out from 300N back approximately 2 or 300'. I'm not sure exactly how far it is, but there's nothing there but a grass line.

Schwickrath: Okay. So there are no trees?

Sheffler: No. Now from on back, there's a bunch of grubs if you wanna count those as trees back to where the Hankins ditch goes across the back of the property here.

Schwickrath: Okay, thank you.

Sheffler: There's grubs there and nothing on the west side there(inaudible)...from the west side to the road.

Schwickrath: Thank you. Anyone else wish to speak? Please.

Sutherland(?): Is this the.....I guess to the board this is just a statement. If you take away from the buffering, probably 90% of these people in this room would have to drive by that every day.

Schwickrath: Right.

Sutherland: Would you guys like to drive by that every day to get home or go to work? It's just a statement.

Schwickrath: Thank you.

Leslie Hill: Leslie Hill. I know that on each side there are farms, but those farms also have families and they may not wanna stare at that all day either.

Schwickrath: Thank you.

(?) Sutherland: (?) Sutherland. So we chose to move to Shelby County because my husband grew up in this area. He wanted to be in the district that he grew up in so our kid could go to the same school that he went to. The building of this is gonna cause more noise, more commotion, more traffic. That's not the area that we chose for our family. So I just would like for you to take that into consideration because that's a big thing for us.

Schwickrath: Staying also for the Plan Commission meeting?

(?) Sutherland: Yeah.

Schwickrath: Okay. Thank you.

Brad Ridgeway: I'm Brad Ridgeway, 4th ward city councilman. I don't know if you're gonna shut public comment off because that really....

Schwickrath: No, I haven't but we need to....

Ridgeway:(inaudible)....I just wanted to make. The you have a very daunting task. I understand that. Zoning is one of the most important things a city can do. You're responsible for upholding them ordinance, making sure we get it right. I'm not here to argue and I wrote the editorial Sunday about is this a good project or not. That's for the community and the people that are planning it. What I am disturbed about is we have to get it right. This administration always talks about an image problem because we don't always take the time to get it right and you yourself, this is a very daunting task. There's a lot of good questions asked out here that no answers were given and yet, we're gonna approve it. I know the focus is narrow, but the implications are bigger and we have to get it right. There's no way that that planners of this should've gave you less than 2 weeks, so many questions. This is a serious, serious project that could have huge implications and I'm sorry that this has been rushed through. It's very clear. There's no doubt about that. So....

Schwickrath: So if I can just say something to that because I've had to think all sides through. The good question of we moved to Shelby County and so on. These are all excellent questions. I'm not denying any of that. The I think this is not, I know that this is not the only layer of discussion and so this is not a done deal just because we're approving variances for the structures necessarily. And I think, I did read your editorial and I understand where you're coming from that this seems to be rushed. That the public notices seem to have been botched, but in fact they were not. And so we the we are not in one way we are not rushing things through. I wish that I had more time to digest exactly what all of this means. I agree.

Ridgeway: And I appreciate your comments and I'm sorry if I interrupted but it just, there's not a city around here would take and rush this through that I know of. It just wouldn't happen. They'd have a lot more public hearings and the planners would make sure that whether they the (?) like it or not, they would be heard and this is good for the city.

Schwickrath: Right. So I think....

Ridgeway: This is where it starts. You can say about the narrow focus you have but this is where it starts zoning. So we can go to the Plan Commission and argue about all of the other things, but if you don't zone it correctly, then everything else....(inaudible)....

Schwickrath: We're not zoning. Because in fact, this is....

Ridgeway: Well you're approving variances.

Schwickrath: ...this is an accepted use.

Ridgeway: I understand that.

Schwickrath: So that that's...

Ridgeway: I misspoke there.

Schwickrath: It's a difficulty for us because our hands are tied. So we're following state law, local ordinances, but in fact, it is an accepted use. There's nothing in our code that says it's not to have an ethanol plant. And so then the dauntingness, you're right it is a daunting task. Then the difficulty is or not difficulty, but rather we have to accept then that are other layers at work. As much fun as we may make of IDEM, I have to trust that they're gonna do their job. And so I, you know what we need to do and this is not the night to do it, but all, in my opinion, all of the different forces that make these decisions and the public is definitely a vital part of that, need to be informed. And so we, I do not wanna start that discussion now.

Ridgeway: And I understand. No, I'm done....(inaudible)...

Schwickrath: Going forward, no it's critical. But as Mr. Carmony always says at City Council meetings where is everyone when we have our actual meetings. So we need to reinvent this whole process for ourselves. We have to.

Ridgeway: The reason why and you know as well as I, I think you're well educated, a well informed citizenry is a key.

Schwickrath: Absolutely.

Ridgeway: And the reason why people don't come to the chambers is because they're not well informed.

Schwickrath: Right.

Ridgeway: We do a terrible job informing our citizens....

Schwickrath: Correct.

Ridgeway:what our city public officials and that's for another day. Real quick, I'm done. And I'm sorry and I have to apologize. I appreciate everybody coming for the dismal technical equipment we have. On behalf of the mayor, myself and the mayor have lobbied for a lot better equipment in here so when the public does come in, it would be better. It's embarrassing. You can't hear. We can't hear. On defense of the mayor, we've tried to do that.

We formed a committee 8 months ago and still hasn't been done. So I hope when the public comes back and these important meetings happen....

Schwickrath: Yes.

Ridgeway:they can hear and we can have better. It's very embarrassing to come to this chambers

Schwickrath: Sure.

Ridgeway:and have the kind of equipment we have. Thank you.

Schwickrath: Thank you, Mr. Ridgeway.

Applause.

Schwickrath: Please.

Miller: Michelle Miller. I'd like to say that if the company is not does not find that it's important to make it have curb appeal and let this look attractive, what are they gonna do when there is an issue? This is concerning to us. This is something so simple that the company can write off so easily....

Schwickrath: Well did you hear what Mr. Lisher asked that we do improve actually the front yard? And then we need to....

Miller: A building has four sides. And I understand the trail the train yard's on the back side, but a building has four sides and a chain, the fence that they're putting up I am gonna assume is chain link and probably who knows what's on across the top. But

Schwickrath: No, there's no barbed wire if that's what you're alluding to.

Miller: Okay.

Schwickrath: No, there's none of that. That was already explained.

Miller: Okay well they....

Niehoff: Or chain link. It's not a chain link fence as the petitioner mentioned earlier. It's....

Miller: What type of fence is it?

Niehoff: It's a traditional five wire fence. We have details if you wanna get together after the meeting, we can show you that.

Miller: It just, it seems to me that if this is so important for the company to come into our territory, they would put 110% forward.

Schwickrath: Sure.

Miller: So and if they don't, then I think that goes to say you know that they're not here, they're here for business, that's it. It's a business. Not for our livelihood.

Schwickrath: Thank you.

(?) Sutherland: (?) Sutherland. So I actually grew up in Portland where you guys have already put a (?) plant and I will be the first one that'll tell you how noisy it is and without any kind of landscaping or trees surrounding that, that's it's awful. I'll tell you, it's not good. So from spending the vast majority of my life in that town,

Schwickrath: Sure.

Sutherland: ... I've seen the effects that it's had and I would say there is more negative than positive.

Schwickrath: Thank you. And I, just so everyone knows, I've heard it's hard to balance this scale 'cause I hear great and I hear not so great. This is, it's tough. Are there any berms that are a part of the plans? I thought I read a berm somewhere, but it's been a lot of information.

(?): Inaudible comment.

Schwickrath: Except around the retention pond. Just please....

Steffen: There are not any berms....

Schwickrath: Okay.

Steffen:scheduled right now to be anywhere other than around the tank farm itself.

Schwickrath: Okay. Alright, thank you. You had a question. Yes?

(?): Inaudible comment.

Schwickrath: That's alright. Most of us don't speak into the microphone too. Go ahead.

Loren Ruble: Loren Ruble. I live directly to the east of the where this is gonna go in and without trees on the east and west sides, I'm worried about sound absorption....

Schwickrath: Sure.

Ruble: ...which has already been commented on. And I came in late, so I apologize if this was already answered, but if there's some sort of a smell that could potentially be helped by tree lines kind of blocking the wind from taking it one direction or another.

Schwickrath: Thank you. Mr. Steffen? I know that we discussed. At this point, I don't know how many trees there are. I think we need a stipulation here because I'm not comfortable with just saying the site as it is. I think we need to work something out right now.

Steffen: Uh huh. I think we'll look at that.

Schwickrath: Okay, thank you. Go ahead.

Niehoff: Are you speaking about in regard to the number the exact number of trees that need to be installed? I mean we can pull together that calculation, but you know if the motion is to maintain the buffer yard, the required buffer yard which is a type 2 on the east and west sides of the property and if you so choose, the condition to include on the north side as well, that buffer yard type 2 is one canopy tree and 2 ornamental or evergreen trees for every 60 feet of contiguous boundary with the adjacent lot. So we can pull together those calculations, but that's the standard they would have to meet.

Lisher: Every 6'?

Schwickrath: Every 60'.

Niehoff: Every 60'.

Lisher: 60.

Schwickrath: 60'. I think we need something.

Lisher: I need a question for the staff if I could.

Schwickrath: Yes.

Niehoff: Sure.

Lisher: I may have misunderstood what the staff recommendation was on the plantings 'cause it apparently when you say relief is to be asked granted along the eastern, western and

southern lines, that implies then they will be required to plant on the north pursuant to the landscaping requirements of the ordinance. Is that correct?

Niehoff: So the buffer yard type 2 applies to the east, west and southern side of the property because they're adjacent to a right of way on the north end.

Lisher: So the north has been left blank so far.

Schwickrath: Yes.

Niehoff: Correct.

Schwickrath: Correct.

Lisher: So my questions....

Schwickrath: Mr. Steffen?

Lisher:were accurate then and maybe requiring some plantings along the north edge.

Niehoff: And that's been done before. I mean you know and as you all know in other (?) variances before you, yeah.

Lisher: Okay.

Schwickrath: Thank you. Thank you, Mr. Lisher. I think you need to consider. I think we need to consider something. So we're still open to public comment at this time.

(?): You wanna see what the west side of

Schwickrath: I'm sorry to make you come forward to the microphone, but we do transcribe these.

(?): If you wanna see what the west side of the property line looks like, I can show you a picture here on this cell phone.

Schwickrath: Would you please state your name again for the record?

Sheffler: Oh I'm Carl Sheffler. I'm sorry.

Niehoff: Are you alright with me....(inaudible)...

Sheffler: This right here....

Schwickrath: Just to get a sense of it right now.

Sheffler: Inaudible comment.

Lisher: Difficult to make that part of the record.

Niehoff: You can see the property line there.

Schwickrath: So we are passing around the view of the western side of the property.

Several people talking at once; no one is clearly audible.

Lisher: Yeah. I think it's on one of these drawings.

Schwickrath: (?) on GIS. It's....

Lisher: I think it's on this drawing here.

Niehoff: It could be, but it would be very small.

Lisher: Yeah. It's kind of fuzzy.

Niehoff: Yeah.

Inaudible discussion among board members.

Lisher: Yeah it does show. There's some greenery along there. It's just fuzzy. Yeah we do have a map so that helps but it's not as clear as that.

Inaudible discussion among board members.

Schwickrath: Thank you for the use of your phone. That helps.

Sheffler: Thank you.

Inaudible discussion.

Schwickrath: Anyone else wish to speak on the final variance, landscaping?

Carte: It's Tammy Carte and I have one more question in regard to the landscaping. It sounds like it's just a cosmetic kind of thing which if we consider the things that actually are going to be produced in that place, is it gonna affect....oh Lord, have mercy. Is it gonna affect the air that

the people breathe? Is it gonna affect the health conditions of the people who live in that part and even into the city? Is it going to cause a deterioration in the wholeness of the people? Sometimes things that look like they are for a benefits and then in the long term, they sometimes become more of a hazard than a help. If it's something that destroys the health benefit for the people, it is not actually a positive (?) for a city but an internal deterioration of the city and that's speaking against anyone in particular.

Schwickrath: Sure.

Carte: Just simply against the principalities that set themselves up against

Schwickrath: So....

Carte:the kingdom of God.

Schwickrath: So the idea here then is to make ahead of time as much as possible, so we're gonna ask for trees, I assume.

Carte: Well....

Schwickrath: I am.

Carte: I'm asking also though even if you have trees, if they planted a forest of trees all around, if that was done....

Schwickrath: See the thing is, I don't wanna get into a philosophical debate because we could nitpick everything.

Carte: No, I....

Schwickrath: I mean highway 74 generates how much emissions?

Carte: Exactly.

Schwickrath: I mean it never ends. And so at this point, I as I said earlier, I have to trust the fact that there are other layers of analysis. This is not just us.

Carte: Okay.

Schwickrath: So the Plan Commission, IDEM and then all the local important well those who look out for public safety are in on this process.

Carte: I'm believing in that also with you. Praise God for it.

Schwickrath: I have to.

Carte: But I also know I also know that and I'm not familiar with the whole process, so if I'm wrong, please correct me so that nothing is erred here. (?)....

Schwickrath: Right.

Carte:is a very dangerous thing and the process of it, because it is produced. It is produced. The process of it is it deteriorates the human anatomy and body.

Schwickrath: Yes, but cows produce excessive methane. I really don't wanna get involved in this conversation right now. To me, this we're (?) about this particular variance.

Carte: And the variance is in regard to the landscaping.....

Schwickrath: Correct.

Carte:and all I'm saying is the landscaping itself and I love trees. I love flowers and grass and all of these things(inaudible)....yes, Ma'am.

Schwickrath: Okay.

Carte: But I'm also saying I love God and I love people more.

Schwickrath: Yes.

Carte: In Jesus' name.

Schwickrath: Thank you.

Niehoff: If I may add, I ran the numbers here on what that requirement may be, what those numbers would be on the east, west and the north side. If applied buffer yard type 2, it would have 72 canopy trees and 144 ornamental or evergreen trees on the eastern property line. Along the western, you would have 61 canopy trees and 123 ornamental or evergreen and along the north side, you would have 33 canopy trees and 66 ornamental or evergreen trees.

Lisher: But ornamental are normally reserved or implied for urban areas rather than rural settings, is that....

Niehoff: Yeah.

Lisher:fair to say?

Niehoff: Absolutely. Yeah and evergreen trees are gonna offer more of a buffer. Certainly it is.

Lisher: Well I'm in favor of the canopy trees, but not necessarily requiring the ornamentals.

Schwickrath: At this time, does anyone else wish to speak on this? We are running out of time. The Plan Commission is slated to meet in about 4 minutes. So if I can close public comment. Okay and then let's we'll finish asking questions on this particular item. Go ahead, please.

Niehoff: My apologies there....(inaudible)...

Schwickrath: No, it's fine.

Steffen: I have no further questions.

Schwickrath: Okay or comments about what we've discussed here?

Steffen: I think to be part of the community and a good neighbor, we would be willing to take on you know as much as you see fit in regard to the buffer yard. 5 – 600 trees sounds like quite a bit where we're at. I have no issue going on the northwest and east. Would ask that we get a little relief on the south since it's (?) and it's completely covered by trees, but I wanna make this an easy decision for you all so we're open to a suggestion.

Schwickrath: Okay, thank you. Is this an item that can be phased in the first year, second year?

Niehoff: It certainly could be. Yeah I mean conditions can be phased. You can tie them to the basis of construction. You can tie them in beyond that, yeah. Well and I guess to take a step back, landscaping is typically done at the end of construction too. I mean that's just in all construction projects. Now I'm not saying that's what they would do here, but in regard to grading, the moving of you know construction vehicles, all of that, that's typically when that happens.

Schwickrath: Okay. So would that be a possibility that you would....I mean I heard what you said, but the offer of even phasing this in because we want you to be a good neighbor and offer buffering and a little bit of aesthetics through the to the site and this may so in fact a possibility? I don't know if the board members think that's a possibility.

Lisher: Pardon?

Schwickrath: To phase it in; would that make a difference or not?

Lisher: Inaudible mumbling.

Steffen: As I mentioned, we're open to that as well.

Schwickrath: Okay. Mr. Lisher, you are thinking about something.

Lisher: Well I'm trying to consider what we want which is landscaping element to this project for the public and as I look at the north side....

(?): We can't hear you.

Schwickrath: Thank you.

Lisher: I'm interested in the landscaping, particularly as the north side for the public. And as I kind of look at this site map that we have, it would seem to me it may be onerous to include ornamentals as well as canopies. Ornamentals probably aren't any taller than the flag poles we have behind me. Whereas the canopy trees are gonna be much taller and it's hard for me to fathom the necessity of farmland needing ornamental tree division.

Schwickrath: Yes.

Lisher: Not saying canopy trees would not be beneficial as many farmlands have property lines that are divided by trees and we're talking probably oaks and maples and so forth. So but on the front side and then particularly or I was trying to decide what frontage, but I'd leave it to the staff maybe to take into account both canopy and ornamental as we get closer towards the entrance on either side correct(?) where the trucks gonna coming in and out. That seems to be this other facility. I can't.....private utility area that's noted on here. The canopy trees to me would provide protection in the distance. The tallest stack items then would be some ornamental tree. What purpose that would serve, I have some doubt about. So I'm thinking of a proposing a landscaping requirement for all side but involving canopies but I'm having some reluctance of trying to figure out what to do on the north end as it relates to the ornamentals.

Schwickrath: I think that that can be something that the staff works with the POET with and I wanna just re-emphasize that they are requesting relief from the southern property line. That is already tree lines basically because of the railroad.

Lisher: Yeah and I don't have any problems with that. So....

Schwickrath: So just to we would like to see then some landscaping in the front on the north side and then along the east and the western borders, right? And then Mr. Lisher, you are proposing condition of

Lisher: Well the canopy trees.....

Schwickrath:canopy trees, sure.

Lisher:yeah to perhaps abide by the ordinance, but the ornamentals is where I'm thinking that it doesn't make a whole lot of sense to require urban ornamentals so to speak in a rural setting that we're dealing with.

Schwickrath: Are you prepared to make a motion?

Lisher: Well I'm trying to decide what what's the staff's....would the staff be able to figure out what it deems appropriate on ornamentals on the front? Or do you need some statement like 100' each side of the entranceway or....

Niehoff: We can work with POET on that. If you wanna generally say landscaping is required on the north end with both ornamentals and canopy trees as determined by the staff and POET, we can....

Lisher: And the staff will take into account the board member comments as it makes deals with the applicant, correct?

Niehoff: 100%.

Lisher: Then Madame chairperson, I would make a motion that we grant a variance under 2018-11F, variance from UDO 5.36 buffer yard landscaping standards with provisions or to the south side and as to the north end we

Schwickrath: With relief along the south side.

Lisher:with relief on the south side and with the north end to comply with the ordinance and left to the staff to work with the applicant as to how that may apply with perhaps a reduced number of ornamentals being required throughout the entire length. And that canopy trees be required along the east and western boundaries.

Schwickrath: Okay there's a motion.

Lisher: Pursuant to the Findings and Facts conclusions as presented by the staff.

Schwickrath: Now there's a motion.

Cassidy: Second.

Schwickrath: Okay please cast your ballots then for 2018-11F. Bryant, was that language clear enough?

Niehoff: Yes. Yes, it was. Sure it was. I'm just jotting down some notes here.

Schwickrath: Thank you.

Niehoff: This is for BZA 2018-11F. Mr. Cassidy – yes, Mr. Lisher – yes, Mr. Clark – no, Ms. Schwickrath – yes.

Schwickrath: Okay so your motions have carried with certain stipulations. I would say to take a 5 minute break before the Plan Commission begins. Are you slated to begin at 7:00 or 7:15?

Niehoff: 7:00.

Schwickrath: Yeah I think everyone needs a break.

Niehoff: So we want to say 7:10 or excuse me, 7:15?

Schwickrath: I think so, yes.

Lisher: Well it's not for us. It's for them.

Niehoff: Yeah.

Schwickrath: You want a break, don't you? At 7:15 then for the Plan Commission? Thank you everyone for your comments tonight. It's very helpful. Motion to adjourn?

Clark: Motion to adjourn.

Schwickrath: I'll second that. Thank you.

Meeting adjourned.