

1 FRANKLIN COUNTY PLANNING AND ZONING
2 BOARD OF ZONING ADJUSTMENT
3 FRANKLIN COUNTY GOVERNMENT CENTER
4 SECOND FLOOR COMMISSION CHAMBERS
5 400 EAST LOCUST STREET
6 UNION, MISSOURI 63084
7
8
9 TRANSCRIPT OF PROCEEDINGS
10 OCTOBER 23, 2018
11 (COMMENCING AT 7:00 P.M.)
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16
17

18 Reported by:
19 Patsy A. Mayberry, C. R.
20 Alaris Litigation Services
21
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1 A P P E A R A N C E
2 PLANNING AND ZONING COMMISSION:
3 GORDON UPCHURCH, CHAIRMAN
4 FRED THATCHER, COMMISSIONER
5 JUSTIN HEAD, COMMISSIONER
6 MARK FRANKENBERG, COMMISSIONER
7 STEVE HOFF, COMMISSIONER
8 PLANNING AND ZONING STAFF:
9 SCOTTIE EAGAN, DIRECTOR PLANNING AND ZONING
10 NICHOLE ZIELKE, COUNTY PLANNER
11 COUNTY LEGAL COUNSEL:
12 (NONE)
13
14 ALARIS LITIGATION SERVICES:
15 PATSY A. MAYBERRY, C. R.
16 711 NORTH 11TH STREET
17 ST. LOUIS, MISSOURI 63101
18 (314) 644-2191
19
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21
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23
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1 P R O C E E D I N G S

2 (OCTOBER 23, 2018)

3 CHAIRMAN UPCHURCH: Good
4 evening. I'm Gordon Upchurch, and I'll call to order
5 this meeting of the Franklin County Board of Zoning
6 Adjustment. I'm joined tonight by Fred Thatcher,
7 Justin Head, Steve Hoff and Mark Frankenberg.

8 We welcome all of you.

9 We have several matters on the agenda
10 this evening, but before we reach those matters, we
11 have some minor procedural matters to attend to.

12 Ms. Eagan, will you call roll.

13 MS. EAGAN: Gordon Upchurch?

14 CHAIRMAN UPCHURCH: I'm here.

15 MS. EAGAN: Fred Thatcher?

16 MEMBER THATCHER: Present.

17 MS. EAGAN: Justin Head?

18 MEMBER HEAD: Here.

19 MS. EAGAN: Steve Hoff?

20 MEMBER HOFF: Here.

21 MS. EAGAN: And, Mark

22 Frankenberg?

23 MEMBER FRANKENBERG: Here.

24 MS. EAGAN: That's it. We

25 have a quorum.

1 CHAIRMAN UPCHURCH: Now so I
2 believe we need to approve the last prior minutes.
3 I'll entertain such a motion to approve the minutes.

4 MEMBER THATCHER: I would like
5 for those minutes to be approved.

6 CHAIRMAN UPCHURCH: Is there a
7 second.

8 MEMBER FRANKENBERG: I'll
9 second that.

10 CHAIRMAN UPCHURCH: Those in
11 favor aye.

12 MEMBER THATCHER: Aye.

13 CHAIRMAN UPCHURCH: Aye.

14 MEMBER HEAD: Aye.

15 MEMBER FRANKENBERG: Aye.

16 MEMBER HOFF: Aye.

17 CHAIRMAN UPCHURCH: Those
18 opposed?

19 (NONE)

20 I believe the minutes are approved.

21 Before moving on to other matters on our
22 -- in our agenda this evening, let me ask for the
23 record, at this time, I'll offer to the Board members
24 this opportunity to declare any conflict,
25 communication, or relationship they may have that

1 might influence their ability in their mind to
2 consider today's issues impartially.

3 (NONE)

4 Hearing no response, I don't believe any
5 of the Members have any association with the project
6 and do not feel that their ability to be impartial is
7 compromised in any fashion. And thus, there is none
8 to declare.

9 From the agenda that I was given, I
10 believe we have another matter of election of
11 officers. And, Scottie, how do you want to handle
12 that?

13 MS. EAGAN: We just -- we'll
14 start with motions for chair, and then we'll go from
15 there.

16 MEMBER HEAD: I make a motion
17 that Gordon be the chairman.

18 MEMBER FRANKENBERG: I second
19 that.

20 CHAIRMAN UPCHURCH: If no one
21 is eager to make other suggestions, then I guess
22 we'll close those nominations and offer that for a
23 vote.

24 If you want to call for a vote.

25 MS. EAGAN: Do you want me to

1 do it individually or altogether?
2 CHAIRMAN UPCHURCH: I guess.
3 I don't know. We do this so rarely.
4 MS. EAGAN: Fred Thatcher?
5 MEMBER THATCHER: Yes.
6 MS. EAGAN: Justin Head?
7 MEMBER HEAD: Yes.
8 MS. EAGAN: Steve Hoff?
9 MEMBER HOFF: Yes.
10 MS. EAGAN: Mark Frankenberg?
11 MEMBER FRANKENBERG: Yes.
12 MS. EAGAN: And, Gordon
13 Upchurch?
14 CHAIRMAN UPCHURCH: I'm
15 confused. I'll abstain.
16 MS. EAGAN: All right. With
17 four in favor, Gordon Upchurch is chair.
18 CHAIRMAN UPCHURCH: Do we
19 elect other officers?
20 MS. EAGAN: We do a
21 vice-chair.
22 CHAIRMAN UPCHURCH: Okay.
23 MS. EAGAN: So we'll --
24 CHAIRMAN UPCHURCH: And for
25 vice-chair? Who is our sitting vice-chair?

1 MS. EAGAN: Currently it's
2 Justin.

3 CHAIRMAN UPCHURCH: Okay.
4 I'll move that Justin be reappointed as vice-chair.

5 MEMBER FRANKENBERG: Second.

6 CHAIRMAN UPCHURCH: If there's
7 no other motions, then we'll close nominations and
8 call it for a vote.

9 MS. EAGAN: Steve Hoff?

10 MEMBER HOFF: Yes.

11 MS. EAGAN: Mark Frankenberg?

12 MEMBER FRANKENBERG: Yes.

13 MS. EAGAN: Gordon Upchurch?

14 CHAIRMAN UPCHURCH: Yes.

15 MS. EAGAN: Fred Thatcher?

16 MEMBER THATCHER: Yes.

17 MS. EAGAN: And, Justin Head?

18 MEMBER HEAD: I'll pass on

19 that.

20 MS. EAGAN: Okay. With four
21 in favor, Justin is the vice-chair.

22 CHAIRMAN UPCHURCH: Do we
23 elect any other officers?

24 MS. EAGAN: I believe that's

25 it.

1 CHAIRMAN UPCHURCH: Okay.

2 Thank you.

3 Ms. Eagan, would you read into the
4 record the hearing procedures.

5 MS. EAGAN: Tonight's Board of
6 Zoning Adjustment hearings are governed by the
7 Franklin County Land Use Regulations.

8 At this time, I would like to place into
9 the record these Regulations as Exhibit A, the
10 official Zoning Map as Exhibit B, the official Master
11 Plan as Exhibit C, and the case file for each case as
12 Exhibit D for all the cases to be heard at this
13 hearing.

14 (Thereupon, evidence was
15 marked for identification as
16 Board Exhibits A, B, C, and D.)

17 The Board of Zoning Adjustment will
18 address each case as they are listed on the agenda.
19 As each case is opened for hearing, a staff report
20 will first be read to the Board, followed by any
21 questions for the staff.

22 Then if anyone in the audience would
23 like to speak or comment during this public hearing,
24 they must first print their name on the sign-in sheet
25 provided, and then be sworn in.

1 When it is your turn to speak, you will
2 come to the front of the room to address the Board
3 and only the Board, not anyone in the audience, with
4 your comments.

5 At the conclusion of all comments and
6 discussion concerning each case, the public hearing
7 for that case will conclude and the Board of Zoning
8 Adjustment will proceed with a decision.

9 Any decision by the Board may be
10 appealed. If anyone desires to appeal a decision
11 made by the Board of Zoning Adjustment, they need to
12 submit it to Circuit Court.

13 CHAIRMAN UPCHURCH: Thank you.

14 I don't believe we have any Old Business
15 on the agenda. So I'll move to New Business.

16 And for New Business, I believe we have
17 a single application, which is File 180226, and do we
18 have a staff report on that application?

19 MS. EAGAN: Yes.

20 This is File 180226.

21 The applicant is Cameron Lueken for Deb
22 Giffin.

23 The applicant is seeking a variance for
24 the requirement found in Article 10, Section 237,
25 Subsection 10(a) and (b).

1 The property is located at 5089 Coleman
2 Road, approximately 350 feet west of Highway MM in
3 Boles Township.

4 The Facts: The variance requested
5 involves one lot approximately 11.5 acres in size.

6 The property is currently zoned
7 Non-Urban and Agricultural.

8 The applicant seeks a variance from the
9 requirement that states outdoor activity spaces and
10 parking lots shall be set back at least 100 feet from
11 any property line.

12 In 2017 new regulations were passed to
13 allow Special Occasion Permits as permitted uses in
14 certain districts as long as certain requirements
15 were met. One of those requirements included
16 setbacks of 100 feet from property lines for any
17 outdoor activity spaces and parking.

18 The applicant requests a variance to be
19 able to construct the parking lot and outdoor
20 activity spaces approximately 20 feet from the
21 property line.

22 Due to the steep topography of the land,
23 the applicant is unable to build the project further
24 away from the property.

25 To the east of the property appears to

1 be a mobile home park, and to the south appears to be
2 undeveloped land owned by Purina Mills.

3 Staff Comments: According to Section
4 103.A:

5 "A variance may be granted
6 by the Board of Zoning Adjustment
7 if the applicant provides
8 sufficient evidence that the
9 hardship relates solely to the
10 applicant's land and where, by
11 reason of exceptional narrowness,
12 shallowness, shape or topography
13 or other extraordinary or
14 exceptional situation or
15 condition of a specific piece
16 of property, the strict
17 application of any regulation
18 would result in peculiar and
19 exceptional difficulties to
20 or exceptional and demonstrable
21 undue hardship upon the owner
22 of the property as an
23 unreasonable deprivation of
24 use as distinguished from the
25 mere grant of a privilege to

1 authorize, upon an appeal
2 relating to a property, a
3 variance from the strict
4 application so as to
5 relieve the demonstrable
6 difficulties or hardships
7 provided the relieve can be
8 granted without substantial
9 detriment to the public good
10 and without substantially
11 impairing the intent, purpose
12 and intensity of the zone plan
13 as embodied in the Zoning
14 Regulations and the Map.

15 And the Planning and Zoning Department
16 don't have any issues with this application.

17 CHAIRMAN UPCHURCH: Is there
18 somebody here to speak on behalf of the application?

19 Need for you to sign in and be sworn.

20 MR. CAMERON LUEKEN: I signed
21 in.

22 (Thereupon, the witness was
23 sworn.)

24 Thanks, Scottie. Good evening. My
25 name is Cameron Lueken with Wunderlich Survey and

1 Engineering. I'm here representing the owners
2 tonight. Ms. Deb Giffin and Bill Coleman are with me
3 tonight, and as Scottie identified, we're here to
4 talk about a variance request.

5 The history of this property is this
6 project is basically we have a proposed event center
7 with parking and outdoor activity on a very steep
8 site. The article that Scottie referred to is
9 Article 10, Section 237, Item 10, Setbacks for
10 Parking and Outdoor Activity Spaces. You need to be
11 a hundred foot setback from the property line, and
12 buildings shall be 200 foot from the nearest
13 residence.

14 The purpose of tonight is to basically
15 identify the peculiarity with this property as it
16 relates to topography.

17 So we are proposing -- the applicant is
18 proposing parking and outdoor activity space within
19 20 feet of the proposed property line, and there is
20 no existing residences within 200 feet.

21 So this is a big picture of view down on
22 the bottom part of the screen, you got 44. This is
23 Highway MM here -- MM here to the east, and then it
24 runs past the site. Coleman Road comes from up here
25 at Gray Summit kind of north, and then comes across

1 the face of the site.

2 This -- all this area in here is owned
3 by Land O' Lakes, Purina Mills. So that's their
4 southern campus. Their northern campus is across
5 over here to get yourself familiar with the -- this
6 is -- this is Beauty View Mobile Home Park (ph.) and
7 I guess some other subdivisions here -- in there.

8 So if you zoom in tight here, so we're
9 going to go to that tight area. So basically this is
10 the -- it says Site Plan without variances is what
11 we're trying to demonstrate here.

12 On the east side -- let me back up a
13 little bit. This site is about 11 acres in size. To
14 the -- in this notified radius, there was eight
15 people identified as noticed, they received notice.
16 I talked to six of the eight owners.

17 Here on the south side, we have Purina
18 Mills. On the southeast side, we've got Anderson. On
19 the east side, we've got Pacific Partners. I talked
20 to Land O' Lakes and I talked to Pacific Partners.

21 Going back to what the site looks like,
22 this is the proposed event center, and you can see
23 there is the parking in the white and then the
24 100-foot -- the yellow line is the 100-foot on each
25 side.

1 So what it looks like with the variance,
2 is that basically shifts to the south. So if I just
3 kind of go back and forth, you can kind of see what
4 that looks like.

5 So what's this look like on a topo. So
6 on the left-hand side here, this is without a
7 variance, the green area is areas of the site that
8 represents 0 to 6 percent slope. The blue area -- so
9 the green area is 0 to 6.

10 The blue area is 6 to 8. The red area
11 is 8 to 12. So that's 8 to 12. The maroon area is
12 greater than 12 percent.

13 So these slopes here get up to about 20,
14 22 percent as you run down the hill this way. So
15 this is without the variance. You can see that the
16 green area is on -- this is the property line here,
17 the property line here. The green area is more -- is
18 right in the southeast corner of the property.

19 So you can see that we would like to get
20 further south towards this green area. So as you do
21 that, what's that look like. So as you -- one of the
22 things too you notice this third parking lot here.
23 Basically this third parking lot is in that Gray and
24 Fulkerson area. We had to decide on the occupancy of
25 this building as it was going to be built. We had to

1 pretty much throw out that parking lot because it
2 just got to be too steep.

3 So even as we suck it south, we can
4 almost get the -- this parking lot in the more level
5 area, but as you can see, the parking lot, still even
6 if we get 20 feet, we're still in this -- we're still
7 touching this greater than 12 percent slope here and
8 greater than 12 percent slope here. This -- this
9 variance would make the site buildable, you might
10 say.

11 So that the unique characteristic of the
12 site is that the more level area, the level area, is
13 in the southeast corner of this property. That's
14 with the variance.

15 So in doing so, what happens is that you
16 see this road leading out this way, a road that leads
17 straight to the north or flipping 90 degrees here
18 what we'll do. In doing so, the road as shown this
19 way based on further engineering and speaking with
20 the fire department and county for an entrance, we're
21 going to have to move the entrance -- we believe
22 where it's shown about here. But this represents
23 about a 15 percent grade. So we -- the fire
24 department codes, we talked to the fire department.
25 Their codes are 10 percent, but they do allow for 15

1 percent, you know, with the road being paved. That
2 is similar to what the County allows also., 15
3 percent.

4 So even -- I mean, even with this, we're
5 trying to use less length as we can to get up to the
6 top of the hill. So that's what that represents.

7 When we looked at the adjoiners, how it
8 affects the adjoiners, as I mentioned, I e-mailed
9 this site plan to Land O' Lakes, talked to Eller
10 Neimeier (ph.) there. He's the farm manager. He
11 e-mailed it to his team at Land O' Lakes. They did
12 not see a problem with that. They did not see a
13 problem with that.

14 I want to bring to your attention,
15 there's a 200-foot power line -- or 200-foot wide
16 power line easement that runs through here. There's
17 a very large transmission power line that runs
18 through here.

19 So Purina Mills properties here, they
20 didn't -- I guess their opinion was as far as they
21 were concerned, there wasn't a whole lot of
22 activities or whatever occurring here for them.

23 To the southeast, there's the Anderson
24 property, and on -- they got about 60 acres there.
25 And on the corner, they've got about half acre, .45

1 acres. I did not talk to the Andersons. They are
2 not here tonight, but I don't -- I can't imagine that
3 they would build anything back here in the culvert on
4 the half-acre piece. It's possible, but I just can't
5 imagine that would.

6 I did talk to Pacific Partners. That's
7 Jeff Busam (ph.). He represents four of the people
8 who were notified, and I'll go ahead and flip to four
9 of -- he actually agreed that it was okay. I'll just
10 read this letter here.

11 "Basically I reviewed the
12 proposal to build the driveway
13 within 20 feet of my western
14 line as shown on the site plans.

15 "I have no issue with this
16 provided that the applicant
17 has no issue with me ever
18 building a driveway or parking
19 area within 20 feet of their
20 property at some point in the
21 future.

22 "I received four notices
23 on this proposal, and I am
24 writing on behalf of Pacific
25 Partners, L. L. C., Pine

1 Crest Farm, L. L. C.,
2 and Jeff Busam.

3 "I believe the venue
4 as proposed will be a good
5 addition to the community.

6 "Jeff Busam"

7 So basically in conclusion, as you can
8 see, it's flatter on the hilltop, flatter terrain on
9 the hilltop, and it's unique to this site. Meaning
10 that we are on the flattest site -- we are on the
11 flattest part of this 11 acres. We're at the spot
12 here we're trying to make use of the green area, you
13 might say, 0 to 6 percent.

14 And the -- I guess also if you want to
15 think about the 100-foot setback as evidence by here
16 tonight, none of the immediately adjoining neighbors
17 are here or have any problems about it affecting
18 them.

19 And if the -- do you have any questions
20 regarding the owners here tonight? The 20-foot
21 setback variance is we move toward the electric
22 easement, and as you saw, there are no existing
23 buildings within 200 feet.

24 As Scottie alluded to, the -- to the
25 east there was a mobile home park. Since that time,

1 all the mobile homes have been actually taken out or
2 they've been obliterated. So there actually is no
3 residence on the east side. Nobody living on the
4 east side of this property right now.

5 Any questions for myself or the owner?

6 CHAIRMAN UPCHURCH: I have a
7 few.

8 Cameron, what is your interest in this
9 property?

10 MR. LUEKEN: My interest is
11 I'm the consulting and surveying engineering firm
12 representing the owner, doing the site plans and
13 permitting for the County. I'm just an agent, is all
14 I am.

15 CHAIRMAN UPCHURCH: Okay.

16 I have some concern for you, and I have
17 to research this, and I'll leave it to the parties to
18 sort that out. You appear to be practicing law at
19 some level, and I'm no expert in that arena, but
20 that's concerning to me.

21 In addition to that, as I reviewed the
22 packet and took it under consideration, a reduction
23 of 80 feet on the setback isn't just substantial.
24 It's dramatic. And I didn't see in the packet any
25 costs or alternatives that were explored short of a

1 variance. So what -- what can you offer into the
2 record with regard to the alternatives that have been
3 explored?

4 MR. LUEKEN: Sure. So I'm not
5 saying that this is -- this is the desire of this
6 Board, but I have spoken in front of this Board
7 before, and usually on the variances the costs aren't
8 a factor.

9 So that's the reason why I didn't
10 present that as evidence. But to speak to that,
11 Gordon, when we looked at doing it without a
12 variance, the parking lot on the north -- I'm jumping
13 to my slide here if I may. As we entered this area
14 and as we entered this area, the parking lots began
15 to get into some eight-foot retaining walls to retain
16 the parking lots. That alluded to, you know, around
17 -- around, I'm just going to throw the number, 25 and
18 35 dollars a square foot cost for retaining walls.

19 So that started jumping up in costs, you
20 know, in the tens of thousands of dollars. As well
21 as, we looked at trying to lower the site. So I'm
22 looking at lowering the site. There's solid rock
23 issues. We had test holes dug out there. The solid
24 rock is at eight feet. On some sites, there are low
25 spots where you can excavate the soil and lower the

1 site and put in a hole. This site doesn't have that.
2 So the site costs of removing the -- the site costs
3 as we investigated the retaining walls, as we looked
4 at blasting rock, and as we looked at removing the
5 soil, it became quite costly.

6 CHAIRMAN UPCHURCH: And what
7 are those numbers?

8 MR. LUEKEN: I mean, I don't
9 have any hard engineering, but we estimated between
10 60 and a hundred thousand dollars.

11 CHAIRMAN UPCHURCH: Okay.

12 With regard to the project itself, you
13 know, what is the planned activity for this site?

14 MR. LUEKEN: Yes, so what I'll
15 do -- can I introduce the owner to come up and speak
16 to you about that?

17 CHAIRMAN UPCHURCH: Well, we
18 can come back to that --

19 MR. LUEKEN: Okay. Okay. All
20 right.

21 CHAIRMAN UPCHURCH: -- if they
22 need to speak to that.

23 And has anything been constructed at
24 this point in time?

25 MR. LUEKEN: No.

1 CHAIRMAN UPCHURCH: And in
2 fact, the parking lot, you've indicated, could be
3 built at some expense with retaining walls, or their
4 parking lots, I presume, could be made smaller?

5 MR. LUEKEN: So one of the
6 things that we investigated was the desire the
7 applicant wants to have possibly more attendees. And
8 on this slide here, you can behind it. There's three
9 parking lots shown, and so basically after we
10 analyzed the site, retaining walls and that cost, we
11 got down to two parking lots with small duration of
12 that.

13 So right now we're looking at building
14 with a capacity of around -- we'll add 200 people.
15 That yields the required parking at two and a half
16 spaces per occu- -- or per -- there's two and a half
17 spaces. Let me back up and slow down.

18 There is -- there's 200 people. There's
19 two and a half spaces required. I'm getting mixed
20 up. Anyway, there was 80 spaces required. How about
21 that.

22 So we've got 83 shown. So we tried to
23 basically the site and costs drove us to basically
24 determine the kind of the occupancy of that building.
25 It was kind of an interim approach.

1 CHAIRMAN UPCHURCH: All right.
2 Those are all the questions that immediately jump out
3 for me. I'm sure you got questions that others will
4 have.

5 MEMBER THATCHER: If I may,
6 Cameron. Would you please describe where this sits.
7 Is this a hilltop here? I mean, I'd like to get an
8 idea of the neighboring property, the zoned property,
9 Pacific Partners as well as the Purina Mills
10 property, how does that lie.

11 MR. LUEKEN: Sure.

12 MEMBER THATCHER: I can barely
13 see that.

14 MR. LUEKEN: Sure.

15 MEMBER THATCHER: Are we on
16 the hilltop?

17 MR. LUEKEN: Yes. This is
18 actually the highest spot of the property. So this
19 is the flattest spot of the property.

20 If you can imagine, this is the
21 intersection. Do you remember where that trailer
22 park used to be on MM. So, you know, if you go to
23 the intersection of Coleman Road.

24 MEMBER THATCHER: Yes.

25 MR. LUEKEN: So as you proceed

1 west on Coleman Road, you drive pretty flat. And
2 then about right in here, you're actually -- as you
3 go down here, so you dip down, there's a creek that
4 runs along Coleman Road. It comes out basically down
5 here. So the creek kind of peels away, and Coleman
6 Road is very flat, but this is all an up-slope
7 condition.

8 The peak of the ridge kind of runs up
9 like this. Kind of runs like that. And then it's
10 hard to see the contours on here, but these -- this
11 is all downhill. It's all downhill all the way to
12 the east.

13 MEMBER THATCHER: Okay.

14 MR. LUEKEN: And then on
15 Purina Mills, it's -- you know, the ridge is right
16 here. It runs to the west here. So we're on the end
17 of the ridge.

18 Basically if you can imagine, MM is in
19 the valley, Coleman Road is in a valley, and this is
20 around the ridge top you might say.

21 MEMBER THATCHER: You have a
22 letter from Pacific Partners endorsing this project.
23 Do you have anything in writing from Purina Mills
24 also?

25 MR. LUEKEN: No.

1 MEMBER THATCHER: And you
2 spoke to whom, once again?

3 MR. LUEKEN: Eller Neimeier.

4 MEMBER THATCHER: Mr.
5 Neimeier?

6 MR. LUEKEN: Yeah, Mr.
7 Neimeier.

8 MEMBER THATCHER: I'm thinking
9 out loud here on the hundred-foot setback. What
10 really is the reason behind the hundred-foot setback?

11 MR. LUEKEN: Are you asking me
12 a question, or are you --

13 MEMBER THATCHER: I guess I'm
14 -- well, yes, I'm asking a question.

15 MR. LUEKEN: Okay. So we --
16 so I guess at the -- there may be a portion that she
17 can answer, that Scottie can answer, but I guess when
18 you look at setbacks, you try to figure out from a
19 standpoint, you know, what's the noise mitigation,
20 the dust mitigation, or the light mitigation when you
21 look at this.

22 And so that's -- that was our thought
23 process on it. We talked about going through the CUP
24 process on this because that's -- that basically was
25 created in one -- and I don't want to put words in

1 your mouth, Scottie, but basically they didn't want
2 these types of applications to continually go through
3 CUP. So they kind of -- they set up carte blanche
4 setback, 100 foot, 200 foot, and that was basically
5 why they did that.

6 But as far as the science behind it, I
7 don't know that there was any investigation done in
8 Planning and Zoning about how that hundred foot and
9 two hundred foot got established.

10 Do you know?

11 MS. EAGAN: No, he's
12 absolutely correct. We were having application after
13 application of these wedding event centers. So we
14 went ahead and did regulations and permitted them in
15 certain districts.

16 When we were thinking of setbacks, we
17 were thinking of what are the things that people
18 complain about the most, and it was noise and light
19 in all those applications. So that's where the
20 setback of a hundred foot came from for any parking
21 because that's where most of your light's going to be
22 and any outdoor activity space because that's where
23 all your noise is typically going to be.

24 MEMBER THATCHER: And the
25 adjoining neighbors, those are all wooded tracts?

1 MR. LUEKEN: Yes.

2 MEMBER THATCHER: Okay.

3 MR. LUEKEN: The adjoining
4 tracts on the east and south.

5 MEMBER THATCHER: Okay. I
6 have no other questions. Thank you.

7 MEMBER HOFF: Cameron, are
8 your adjoining neighbors as steep as what this ground
9 is that we're...

10 MR. LUEKEN: So to the east,
11 Steve, I'd have to do some math to figure it out. If
12 I remember right, I don't exactly know, but this --
13 this road going up the hill from about right here,
14 gets pretty steep. I don't know if it's as steep. I
15 don't know. It's pretty steep. I -- if I had to
16 guess, I don't -- I don't know. It's pretty steep,
17 Steve.

18 MEMBER THATCHER: Let me butt
19 in here for a moment. What we see, is that a cul de
20 sac we see here, Cameron? What do we see on the --

21 MR. LUEKEN: Right here?

22 MEMBER THATCHER: Yes. What
23 is it?

24 MR. LUEKEN: Yeah, that there
25 -- yeah, that's probably the best image. That there

1 is basically the mainline road that fed 16 mobile
2 homes, and that was some form of a private turnaround
3 cul de sac. Yes.

4 MEMBER THATCHER: Okay. So
5 that would be the closest, in other words. Granted
6 he's signed off on this, but just for my own
7 edification here, how -- about how many feet is that
8 from where the --

9 MR. LUEKEN: Yes.

10 MEMBER THATCHER: -- variance
11 would put the road?

12 MR. LUEKEN: Yes. So if you
13 can imagine. Look at this slide here for a minute.
14 That there distances represents 116 feet. So you can
15 see that that's, you know, well over. So if -- if
16 the Pacific Partners would install another mobile
17 home here, we would still be well over the 200-foot
18 requirement by Planning and Zoning.

19 MEMBER THATCHER: And then if
20 you go south to Purina Mills, there would be well in
21 excess of, what, 400 feet?

22 MR. LUEKEN: Well, there in
23 front of -- oops. So if you can imagine, the nearest
24 Purina Mills building is their meat or their --

25 MEMBER THATCHER: Not

1 building, but building site.

2 MR. LUEKEN: Oh, building
3 site.

4 MEMBER THATCHER: Let's --

5 MR. LUEKEN: Okay.

6 MEMBER THATCHER: -- look
7 towards the future.

8 MR. LUEKEN: Yeah. So if you
9 can see this big swath of ground here is the power
10 line. So I mean, theoretically they could build
11 something here, but typically their buildings are
12 longer and this is very steep here to -- this is just
13 very similar site characteristics as you come south
14 of the applicant's property line. So this is very
15 steep, you know. I can't -- I can't imagine that
16 Purina would put a building there.

17 MEMBER THATCHER: So there's
18 200 feet minimum because of the power line, correct?

19 MR. LUEKEN: Correct.

20 MEMBER THATCHER: Thank you.

21 MEMBER FRANKENBERG: I have
22 some questions, Cameron.

23 You said it's going to be 60 to 100
24 thousand dollars for additional costs --

25 MR. LUEKEN: Yes.

1 MEMBER FRANKENBERG: -- to
2 build the 100 foot off?

3 MR. LUEKEN: Yes.

4 MEMBER FRANKENBERG: What's
5 the total cost of the project?

6 MR. LUEKEN: I'd have to let
7 the applicant come up here and talk to you about
8 that.

9 MEMBER FRANKENBERG: Fine.
10 You did do a cost estimate on that
11 earlier.

12 MR. LUEKEN: Well, we didn't
13 -- we didn't do a cost estimate with building. You
14 asked total cost. I don't know what that --

15 MEMBER FRANKENBERG: What's
16 the cost on the earth work and the improvements
17 besides the building?

18 MR. LUEKEN: We are still --
19 so, Mark, we're still designed everything as far as
20 the sewer, the water, the stormwater, the road and
21 all that. I don't know a total cost.

22 MEMBER FRANKENBERG: Can you
23 give me a rough estimate? Was it a million?

24 MR. LUEKEN: For the site
25 cost?

1 MEMBER FRANKENBERG: Yeah.

2 MR. LUEKEN: No. It's going
3 to be, I would guess, if you just want to look
4 outside the building, I'm guessing between three and
5 four hundred thousand dollars. I don't know.

6 MEMBER FRANKENBERG: Okay. So
7 we're looking at additional 33 percent at the most
8 with retaining walls.

9 What's the basis of your contours?

10 MR. LUEKEN: The basis of our
11 contours is we shot these in the field, on the ground
12 survey. In addition to supplemented stock contours
13 that we got from a...

14 MEMBER FRANKENBERG: And we
15 can't see here ground shots, I'm assuming, because I
16 researched this a little bit. It looks like these
17 contours come straight off the Franklin County GIS.

18 And then when I went to my Google Earth
19 program, I'm seeing 45 foot of difference between the
20 Franklin County GIS and the Google Earth contours.
21 So I just --

22 MR. LUEKEN: Yeah, we --

23 MEMBER FRANKENBERG: We're
24 kind of taking this for granted that the work is
25 done. I don't see any basis of contours in your

1 notes. I don't see any ground shots. We're just
2 taking your word that this is the way it looks.

3 MR. LUEKEN: Well, this is the
4 way it is. We shot this on the ground from here to
5 here. So that's -- that's the elevations we shot on
6 the field.

7 The basis of it is in MoDOT DPS MoDOT.

8 MEMBER FRANKENBERG: Okay. No
9 more questions.

10 CHAIRMAN UPCHURCH: Are there
11 any other questions?

12 MEMBER HOFF: (Negative head
13 shake.)

14 CHAIRMAN UPCHURCH: I think
15 that's all of the questions that I have, unless there
16 are others that have been raised and I appreciate we
17 might hear from some other witnesses on the my other
18 questions.

19 Is there anything else you want to
20 offer?

21 MR. LUEKEN: Not at this time.

22 CHAIRMAN UPCHURCH: Okay.

23 Thank you.

24 MR. LUEKEN: Thank you.

25 CHAIRMAN UPCHURCH: I need for

1 you to sign in and be sworn.

2 (Thereupon, the witness was
3 sworn.)

4 Your name for the record.

5 MS. DEB GIFFIN: Deb Giffin.

6 CHAIRMAN UPCHURCH: You have
7 the podium.

8 MS. GIFFIN: Yes, I believe
9 your question was what was our intended purpose --

10 CHAIRMAN UPCHURCH: Yes,
11 that's one of mine, --

12 MS. GIFFIN: -- for the --

13 CHAIRMAN UPCHURCH: Yes.

14 MS. GIFFIN: Okay. It is an
15 event center, and we believe our primary market will
16 be for wedding venues. But because of my 30 years in
17 real estate development, I also believe that we will
18 serve the corporate industry where we will have some
19 corporate events there, and then we'll have just some
20 local events that some of the neighboring communities
21 will want to -- to hold at the building.

22 CHAIRMAN UPCHURCH: What would
23 that be?

24 MS. GIFFIN: It could be
25 classes, luncheons, teas.

1 CHAIRMAN UPCHURCH: Inasmuch
2 as -- unless I misread this, this is for summer just
3 an outdoor activity. Teas and luncheons don't
4 necessarily sound like outdoor activities. So what
5 else is being contemplated here?

6 MS. GIFFIN: More than likely
7 for the outdoor activities it would be on a large
8 patio for the wedding venues if they'd like an
9 outdoor event.

10 CHAIRMAN UPCHURCH: And there
11 was some other questions by others in terms of costs
12 of the project. Do you have those costs?

13 MS. GIFFIN: We have an
14 anticipated budget of a million-dollar total cost,
15 but we've not taken it out to big yet. We're waiting
16 for the engineering and architectural work to
17 complete.

18 CHAIRMAN UPCHURCH: Those are
19 the only other questions that come to mind. Again,
20 you have the podium right now if there are things
21 that you would want to offer with regard to the
22 project and the application.

23 MS. GIFFIN: No, I appreciate
24 the work that Cameron has done. What could offer is
25 my background, years of experience. Same with Bill

1 Coleman. If that's of interest to you.

2 CHAIRMAN UPCHURCH: Are there
3 other questions?

4 MEMBER THATCHER: How's the
5 view?

6 MS. GIFFIN: It's beautiful.

7 MEMBER HOFF: Is this building
8 a two-story building?

9 MS. GIFFIN: It is.

10 MEMBER HOFF: It has a
11 basement?

12 MS. GIFFIN: Well, it would be
13 three including the underground level.

14 MEMBER HOFF: That lower
15 level, is that going to be accessible to the lower
16 parking lot? Is that --

17 MS. GIFFIN: Yes, it is.

18 MEMBER HOFF: -- what we're
19 looking at this.

20 MS. GIFFIN: Yes, it is.

21 CHAIRMAN UPCHURCH: Other
22 questions?

23 MEMBER THATCHER: Is the road
24 in now?

25 MS. GIFFIN: No. There's a

1 gravel road that you can see on the aerial, but the
2 one that we are anticipating is not in.

3 MEMBER THATCHER: Okay. So
4 what I see -- okay. I can see the railroad crossing
5 now.

6 MS. GIFFIN: Uh-huh.

7 MEMBER THATCHER: I drove down
8 there just last week, and I noticed a road over on my
9 right. I was wondering what that was. Thank you.

10 CHAIRMAN UPCHURCH: Any other
11 questions?

12 (NONE)

13 Thank you.

14 MS. GIFFIN: Thank you.

15 CHAIRMAN UPCHURCH: And is
16 there anybody else to be heard on behalf of the
17 applicant?

18 MR. COLEMAN: Not unless
19 there's more questions.

20 CHAIRMAN UPCHURCH: All right.
21 Thank you.

22 Then I guess we'll close the evidence.
23 We'll open it up for discussion among the Board.

24 I'll open the discussion. With regard
25 to a variance, I believe under the Ordinance, it

1 requires that the need for the variance be unique
2 where it relates to topography and not necessarily be
3 tied to use or an owner's use. And it appears in
4 most of the application here is tied to the use.

5 In addition to that, I believe we need
6 to consider how substantial the variance being
7 applied for is, and this is an application to change
8 the variance by 80 percent down to 20 feet. So I
9 believe that is a troublesome consideration that we
10 have to tackle here tonight.

11 With regard to the neighbors not being
12 here, that technically isn't a legal consideration,
13 and this Board's obligation with regard to variances
14 is our risk of creating, if you will, a presumption
15 that we're not enforcing our ordinance for later
16 applicants where we might have people who are
17 objecting.

18 Also concerning, I think, to this Board
19 is the fact that one applicant that did respond
20 conditioned his response on his being able to receive
21 a like variance. This Board has no authority to
22 grant such a conditional authorization to a third
23 party, an applicant before us that he could build a
24 similar road in the future.

25 So off the top of my head, those are

1 concerns that I have.

2 Is there other discussion among the
3 Board?

4 MEMBER THATCHER: In my
5 opinion, the purpose of the hundred-foot setback is
6 to mitigate light and noise. The neighbors have
7 signed off. One neighbor has signed off on that and
8 has agreed to it.

9 So in that case, I think we've solved
10 that mitigation issue.

11 CHAIRMAN UPCHURCH: He's
12 signed off on it based --

13 MEMBER THATCHER: He said he's
14 agreed to this variance.

15 MEMBER FRANKENBERG: As long
16 as he gets one too.

17 CHAIRMAN UPCHURCH: As long as
18 he gets one too. I just discussed that. That's --

19 MEMBER THATCHER: I know -- I
20 know, but --

21 CHAIRMAN UPCHURCH: That's
22 problematic.

23 MEMBER THATCHER: Yes. If his
24 use were commercial or he had an event center, he
25 would have to be a hundred foot as well. However, if

1 he were residential, what would he have to be?

2 MS. EAGAN: We don't have any
3 setbacks for residential structures.

4 MEMBER THATCHER: The neighbor
5 to the south, I would feel much more comfortable if
6 the neighbor to the south would -- if we get a letter
7 from the neighbor to the south as well. We have a
8 letter from the neighbor to the south stating that --

9 CHAIRMAN UPCHURCH: Is that
10 Purina or --

11 MEMBER THATCHER: -- stating
12 that. I mean, I -- I -- to make a decision without
13 their input, and this is a major decision, I think is
14 difficult for me. I would much prefer to see a yea
15 or nay on their part.

16 So unless I agree with the quid pro quo
17 on the south tract, but I think they've addressed the
18 noise and the light issues. Which is why we have the
19 100-foot setback, and that being said, I'm
20 comfortable with the variance.

21 It's a severe variance. It's a very
22 difficult piece of property. I think the view is the
23 reason why the Giffins chose this piece and strictly
24 because of the view, because it's a tough one to work
25 with. I work with a lot of difficult property, and

1 it's -- it's tough.

2 So I would feel -- for the record, I
3 will feel much more comfortable if I had something
4 from the neighbor to the south.

5 CHAIRMAN UPCHURCH: Is there
6 other discussion?

7 MEMBER HOFF: I feel the same
8 way. I'd like to at least see some kind of
9 information directly from Purina.

10 CHAIRMAN UPCHURCH: Any other
11 discussion from other members?

12 MEMBER HEAD: I don't see the
13 statement from the other neighbor necessarily as a --
14 I guess it is kind of a quid pro quo, but I don't
15 take it as him feeling that it's guaranteed to pass.
16 I think it's just -- I take it as he's not going to
17 be here jumping up and down if they would ask for the
18 same sort of consideration. So I guess I don't take
19 that negatively.

20 CHAIRMAN UPCHURCH: The letter
21 as I read it indicated he didn't object so long as he
22 could build one within -- a road within 20 feet. It
23 appears to be conditional.

24 MEMBER HEAD: But he does
25 not --

1 MEMBER HOFF: Do I understand
2 that it has to be a guarantee that he gets it?
3 Because we as a committee can do that, but --

4 CHAIRMAN UPCHURCH: We have no
5 authority to do that.

6 MEMBER HOFF: But what he can
7 do is not argue a variance or not argue the
8 commitment down the road if they want to build one
9 within 20 foot of the line. Then that can be
10 committed into their --

11 CHAIRMAN UPCHURCH: Nothing in
12 our ordinance permits neighbors to agree to
13 variances. So that suggestion, I think, flies in the
14 face of our ordinance.

15 So again, that's concerning.

16 MEMBER HOFF: Well, I'd still
17 think that the property to the north would have to
18 come and ask for a variance just like these people
19 are here but with no objections. That's what I'm
20 getting at.

21 CHAIRMAN UPCHURCH: For a
22 commercial activity, I think it what we've heard from
23 Scottie.

24 MS. EAGAN: The only time we
25 require setbacks typically involve cell towers,

1 billboards and now special occasions. Anything else
2 we don't have setbacks that people have to follow.
3 And driveways we don't have any setbacks period.

4 CHAIRMAN UPCHURCH: Thank you
5 for that.

6 Is there other discussion among the
7 Board?

8 MEMBER FRANKENBERG: You said
9 driveways you don't have any setbacks period. So
10 then pretty close if we slid this over 15, 20 feet,
11 all the parking would then be outside of the 100-foot
12 setback. So why are we even here?

13 The building is 116 feet away. The
14 lower parking lot looks like it's every bit of a
15 hundred feet away. Driveways don't have a setback.
16 There's a driveway going in the setback we're talking
17 about. It doesn't look like there's any parking in
18 it.

19 So why don't we slide the lower parking
20 lot a hundred feet away and meet the Code?

21 MS. EAGAN: I don't know
22 that's for me to answer.

23 CHAIRMAN UPCHURCH: We have
24 closed evidence.

25 MEMBER FRANKENBERG: I'm just

1 saying. I'm just talking out loud. It seems to me
2 like we could meet the Code by the driveways are
3 allowed to be in, I'm assuming, a turnaround and the
4 flag area that's going to be there, the flower area,
5 is a driveway. So it looks to me like, except on the
6 south end, the Code could be met on the east end.

7 CHAIRMAN UPCHURCH: Scottie, I
8 have a question with regard to the setbacks because
9 we've discussed parking lots and we've discussed the
10 building.

11 The setbacks from this property as a
12 commercial activity, is that involved in the setback,
13 or is it just the building?

14 MS. EAGAN: Any parking lot,
15 any building or any what we call outdoor activity
16 space, which would be having a patio with a band or
17 tables, anything like that, all -- those are the
18 three things that would require a setback.

19 CHAIRMAN UPCHURCH: So the
20 roadway (sic) wouldn't have to be --

21 MS. EAGAN: The driveway, it
22 does not need the setback. It's just the parking
23 spaces.

24 CHAIRMAN UPCHURCH: And would
25 not be required to meet any setback?

1 MS. EAGAN: Correct.

2 CHAIRMAN UPCHURCH: Okay.

3 MEMBER HOFF: Pacific

4 Partners, are they -- is that zoned commercial or
5 agricultural or residential?

6 MS. EAGAN: I do not know that
7 off the top of my head.

8 Without looking at my rezoning book,
9 according to the map, it looks like it's NUA.

10 CHAIRMAN UPCHURCH: So, Mark,
11 I'm relying on you here with regard to the setback
12 and the drawing. How far would the -- what's the --

13 MEMBER FRANKENBERG: If we
14 look at the far eastern corner of the building, it's
15 116.4, could be 118.4. So that's definitely 18 feet
16 off of the 100-foot setback. And if that is so, then
17 we're only losing three or four spaces on the north
18 parking lot, and it looks like maybe ten to twelve on
19 the south parking lot.

20 Of course, if we have a hundred-foot
21 setback on the south property line, that is an issue.

22 CHAIRMAN UPCHURCH: But I
23 think Scottie has just said that the setback doesn't
24 apply to the parking areas.

25 MS. EAGAN: It does apply to

1 the parking spaces.

2 CHAIRMAN UPCHURCH: Oh, okay.

3 MS. EAGAN: It doesn't to the
4 drive.

5 MEMBER FRANKENBERG: To the
6 driveways. So I don't know how much of a hardship is
7 this to adjust and slide it to the west 20 feet or
8 the parking lot to the west 20 feet to make the north
9 and southeast parking lot work, and then of course
10 then we have the parking along the south side that
11 needs to be slid at least 80 feet north. That might
12 be an issue because we've got it 20 feet off the
13 south property line.

14 This would have to go north.

15 CHAIRMAN UPCHURCH: Cameron,
16 we don't have anybody else here to object, so why
17 don't you step up here and see if you can answer this
18 question that sounds structural to me or the
19 engineering.

20 MR. LUEKEN: Sure. I'm going
21 to take you back to the slide here. As Mark's
22 alluded to, I'm just going to go back to kind of
23 reiterate what Mark said.

24 Mark's accurate in saying that it's 116
25 or 118 feet off this side, and as Mark identified,

1 this back line is severe. So we've actually got all
2 the parking on the east side out of the setback on
3 the east side. So we're not -- technically we're not
4 even talking about a variance on the east side.

5 When you look at trying to get in the
6 green area, you've got to slide it to the south. The
7 80 foot to the south is the big deal. I'm sorry.

8 So when you look at doing that, that
9 slides this parking, you know, in the green. It
10 would -- we put the lower parking down here in the
11 south, in the green area, in the flatter area. So
12 that's the issue, is the southern variance.

13 The eastern side we can -- I think, like
14 Mark said -- let me look at my sheet here just to --

15 MEMBER FRANKENBERG: Cameron,
16 what is in the green area where the dry hydrant is?
17 Is that just grass?

18 MR. LUEKEN: Just --

19 MEMBER FRANKENBERG: Or is
20 that going to be parking?

21 MR. LUEKEN: Just grade. It's
22 just is like a landscaping and green area and all
23 that.

24 MEMBER FRANKENBERG: Could you
25 pick up some parking in that area and move the south

1 parking lot, some of that parking, into that area to
2 keep it off of the 100-foot setback?

3 MR. LUEKEN: Uh --

4 MEMBER FRANKENBERG: Would
5 that be possible?

6 MR. LUEKEN: It's --

7 MEMBER FRANKENBERG: It looks
8 like for your green area, I mean, you're not
9 separating your parking lots like you probably want
10 to, but --

11 MR. LUEKEN: Right, right,
12 right.

13 So to speak to that, Mark, basically
14 they wanted the approach to aesthetically pleasing,
15 number one.

16 Number two, it's a wedding venue. So
17 they want it to be more aesthetically pleasing.

18 Number three, the grade from here to
19 here, this is the lower parking lot. So the lower
20 parking lot is going to be a lower elevation to
21 access this way with the ADA and all that. So this
22 is a lower parking, what we call the upper parking
23 lot.

24 So in answer to your question, we're
25 using this to break grade and go down and come back

1 around to get to a lower elevation on the basement
2 level, you might so.

3 So to put parking in here, gets in the
4 transitional zone between the two levels. It gets a
5 little tricky.

6 MEMBER FRANKENBERG: So you're
7 saying the north parking lot will be parking
8 basically for the lower level, and the south parking
9 lot will be parking for the upper level?

10 MR. LUEKEN: Yeah,
11 essentially. For an event that's -- this will be the
12 primary parking lot for a heavily attended event.
13 This will be the lower parking lot, nine steps and
14 you'll come to the lower parking lot up here to the
15 main entry up here, the upper level.

16 So that's the reason why this is
17 basically all transitional from curb to curb. So
18 that's why it gets tough too.

19 MEMBER HOFF: So on this upper
20 parking lot, you're still going to have to build a
21 retention wall?

22 MR. LUEKEN: Yeah, right here,
23 Steve, on the west side, we'll still have to do -- if
24 we -- the wall potentially is maybe only two-foot
25 tall rather than eight-foot tall.

1 MEMBER HOFF: Well, the way
2 I'm kind of looking at it it might even be taller
3 than that.

4 MR. LUEKEN: It's possible.

5 MEMBER HOFF: I'm looking at
6 maybe 15 foot.

7 MR. LUEKEN: Um, I don't
8 remember that being the case.

9 MEMBER HOFF: Okay.

10 MR. LUEKEN: Another issue,
11 Mark, there was is this is the drive room area so as
12 the fire trucks came in and turned around here, they
13 didn't -- they were sensitive to where they staged
14 their truck -- their apparatus.

15 MEMBER FRANKENBERG: Do you
16 know what the elevation of the first floor of the
17 building is going to be?

18 MR. LUEKEN: One of the
19 iterations we had it at 629.

20 MEMBER FRANKENBERG: So the
21 basement would be roughly 618, 615?

22 MR. LUEKEN: Yes, it's 11 feet
23 from finished floor to finished floor.

24 MEMBER FRANKENBERG: Six
25 eighteen. So it looks like you'd be cutting 10 to 15

1 feet. Can you go back to the picture that shows it
2 fitting within the setbacks.

3 MR. LUEKEN: (Complying)

4 MEMBER FRANKENBERG: And you
5 eliminated -- on this picture you're showing a
6 northern parking lot that's not shown on the final
7 drawing here as within the setbacks. So it looks to
8 me -- just talking out loud.

9 But with the north lot going which it's
10 not on the final, there's not a lot of -- only about
11 30 percent of your lots are in the heavy red area,
12 this upper lot here, about a third.

13 And on this one here, it looks to me
14 like you've probably got about a third too. So
15 what's the advantage?

16 We got to eliminate that north parking
17 lot because it's not shown on the final drawings.

18 MR. LUEKEN: Right. So the --
19 basically we're in the red here. We're in the heavy
20 red right here.

21 MEMBER FRANKENBERG: Okay,
22 yeah.

23 MR. LUEKEN: And we're heavy
24 in the red right here.

25 MEMBER FRANKENBERG: Yeah.

1 MR. LUEKEN: We're -- I don't
2 know -- eight spaces in or so.

3 MEMBER FRANKENBERG: Yeah.

4 MR. LUEKEN: Here we're like
5 three spaces in. Here we're not even in it.

6 MEMBER FRANKENBERG: And you
7 don't think you can reconfigure that to pick up the
8 extra 11 spaces?

9 MR. LUEKEN: Well --

10 MEMBER FRANKENBERG: I mean,
11 because you're asking for a lot here. I mean.

12 MR. LUEKEN: Yeah. So -- so
13 to --

14 MEMBER FRANKENBERG: If were
15 going maybe you could put it only 50 foot in, but to
16 take 80 percent of the --

17 MR. LUEKEN: Yes.

18 MEMBER FRANKENBERG: --
19 setback up.

20 MR. LUEKEN: Right. So --

21 MEMBER FRANKENBERG: Of
22 course, we're setting a precedence here because the
23 next guys that's going to be coming will say well,
24 you did it for them. So it's just...

25 MR. LUEKEN: I guess to answer

1 your question, Mark, in the -- or to the Board for
2 that matter, in this -- so one of the things that I
3 wanted to say was a while ago, if the Board desires a
4 letter from Purina Mills or Land O' Lakes, I could
5 get that.

6 But if it's not part of your -- so what,
7 for example, if you want to table it and we come back
8 next meeting with a letter from Land O' Lakes
9 identifying this, I think I can talk with the owners
10 and see, but I think they'd be all good with that.

11 But I -- but I don't -- I didn't think
12 that it was a wish of the Commission to entertain --
13 I thought they just wanted to look at what the Code
14 said possibly rather than maybe what the neighbors --
15 how do I say this. Let me back up.

16 With -- in regard to -- regardless to
17 the Busam letter, here's exactly how the conversation
18 went with Busam.

19 I contacted Busam. He's a client of
20 mine, and I said the -- there's going to be a
21 hearing. He received a notice. He was aware of
22 that. I said, "Would you want to come to the meeting
23 and speak, or would you like to write a letter?"

24 He said, write a letter.

25 I said, "They want to build within 20

1 feet of the property line."

2 He said, "That's perfectly fine with
3 me."

4 He's met the owners. He knows the
5 owners, and he said, "As long as they're okay with me
6 asking for it in the future," meaning that Jeff would
7 come and ask you guys, he's okay with that.

8 So I don't -- I don't know if that
9 answers your question or not, but that was -- that's
10 how the conversation went.

11 MEMBER FRANKENBERG: I don't
12 have a problem with Busam because he's not affected
13 because we're allowed to put the driveway in the
14 100-foot setback.

15 MR. LUEKEN: Okay.

16 MEMBER FRANKENBERG: And the
17 most he can be affected by is 10 or 15 feet --

18 MR. LUEKEN: Okay.

19 MEMBER FRANKENBERG: --
20 through that space.

21 MR. LUEKEN: Okay.

22 MEMBER FRANKENBERG: So he's
23 not affected at all. Of course, Purina Farms did not
24 show up.

25 I guess my biggest concern and I guess

1 Gordon's is, if this is granted, the next person that
2 comes in and wants to do this, can they take this and
3 say well, you did it here.

4 Is that a legitimate statement for the
5 next applicant that says I want to build in the
6 100-foot setback? Scottie?

7 CHAIRMAN UPCHURCH: I think --
8 I think we know that we've seen that in the past, and
9 there are certain cases with regard to zoning that
10 talk about boards not honoring the ordinances and
11 then not enforcing the ordinances.

12 So is that -- is that a risk or
13 consideration? It is.

14 MS. EAGAN: It just -- it
15 depends on our legal counsel at the time. Our
16 previous one said you take every case as its own.
17 You don't look at previous cases.

18 I haven't asked our new counsel what his
19 opinion is on it. So I can't give you a definite
20 answer of -- of whether or not it will affect the
21 future files.

22 MEMBER FRANKENBERG: Well,
23 that's my only concern, because apparently Purina
24 Farms doesn't care. They're not here.

25 CHAIRMAN UPCHURCH: So --

1 MEMBER FRANKENBERG: And it's
2 are we setting a precedence here that now everybody
3 that shows up --

4 MR. LUEKEN: Right.

5 MEMBER FRANKENBERG: -- it
6 happened here, so we want it too.

7 MR. LUEKEN: Right. I don't
8 want to testify for Scottie, but she can allude to
9 it. I had a conversation with Scottie and Mark
10 Piontek about this application. I said, it looks
11 like we have two choices. Either one I can come to
12 you, the Planning and Zoning Board, as a conditional
13 use permit. Which we were going to voluntarily
14 subject ourselves to and talk about the setback issue
15 or the variance board. Those were my two options.

16 Basically Scottie and Mark chose that
17 they felt this was the proper venue to come and speak
18 at.

19 MS. EAGAN: That's correct.

20 MEMBER HEAD: I do think that
21 the property can qualify as having uniqueness due to
22 the topography, and I think that it can certain fall
23 within the realm of --

24 MEMBER THATCHER: But, Justin,
25 let me interrupt you. That's self-imposed. They've

1 chosen to do an event center on a specific of ground.
2 It's their choice to do that there.

3 MEMBER HEAD: Well, that piece
4 of ground --

5 MEMBER THATCHER: And I have a
6 problem with that part.

7 MEMBER HEAD: The piece of
8 ground, the flattest usable part is the southeast
9 corner, which falls into the realm that somebody is
10 going to have to use. I agree with you that they can
11 build a house or, you know, use some other use, but I
12 don't see it on its face as being a reason affecting
13 the vote.

14 CHAIRMAN UPCHURCH: Are there
15 other questions of Cameron?

16 (NONE)

17 Thank you.

18 MR. LUEKEN: Thank you.

19 CHAIRMAN UPCHURCH: Well, is
20 there other further discussion among the Board and I
21 know we're raised numerous issues here with regard to
22 the application and considerations and concerns.

23 Are there other considerations and
24 concerns among the Board?

25 (NONE)

1 Hearing --

2 MEMBER THATCHER: I would like
3 once again to reiterate on the approval from the
4 neighbor to the south. I think that the topography,
5 the power line, the -- I guess the space and
6 buildable space that I can see from a neighbor
7 putting in next door, I'm comfortable with that
8 because it -- the purpose of the rule is to meet
9 diminution of light and noise.

10 And I think it satisfy the setback with
11 the setback and still satisfies the mitigation of
12 light and noise. Combine that with the neighbor
13 agreeing to it, and I'm fine with that.

14 If somebody else comes in and says well,
15 you did it for them, I'd say yes, we did it for them,
16 but you don't have a 200-foot power line in your
17 backyard, and you don't have all the woods, and you
18 have the neighbor's approval is really what it comes
19 down to.

20 Our charge is to protect the neighbor
21 and the values of other adjoining property owners.
22 If the joint property owners don't have a problem
23 with it, so be it.

24 CHAIRMAN UPCHURCH: Is there
25 other discussion?

1 (NONE)

2 If there's no other discussion, I would
3 entertain a motion.

4 MEMBER HEAD: I make a motion
5 to affirm the variance.

6 CHAIRMAN UPCHURCH: To approve
7 the variance?

8 MEMBER HEAD: Yes.

9 CHAIRMAN UPCHURCH: As -- as
10 applied?

11 MEMBER HEAD: Then we do have
12 a motion. Is there a second or discussion on that
13 motion?

14 MEMBER FRANKENBERG: I second
15 it just because I think they have a buffer behind it
16 with the power line. If this was a different
17 instance, I would have to agree with Fred a hundred
18 percent, get a letter. Of course, letters mean
19 nothing. So -- but with the power line behind it, I
20 believe the buffer is sufficient.

21 CHAIRMAN UPCHURCH: Is there
22 other discussion on the motion and second?

23 (NONE)

24 If none, then, Scottie, I believe we
25 need to call it for a vote on the motion that is

1 again to approve the application as made.

2 MS. EAGAN: Justin Head?

3 MEMBER HEAD: Yes.

4 MS. EAGAN: Steve Hoff?

5 MEMBER HOFF: Yes.

6 MS. EAGAN: Mark Frankenberg?

7 MEMBER FRANKENBERG: Yes.

8 MS. EAGAN: Gordon Upchurch?

9 CHAIRMAN UPCHURCH: No.

10 MS. EAGAN: And, Fred

11 Thatcher?

12 MEMBER THATCHER: I -- no. I

13 just really want that letter from Purina.

14 MS. EAGAN: With three in

15 favor and two opposed, the variance is denied.

16 MEMBER THATCHER: Now, Gordon.

17 CHAIRMAN UPCHURCH: I believe

18 that's all the business that we have this evening,

19 and I would entertain a motion that we would adjourn.

20 MS. EAGAN: Can I say

21 something real quick?

22 CHAIRMAN UPCHURCH: Yes.

23 MS. EAGAN: It's not about

24 this file.

25 CHAIRMAN UPCHURCH: Okay.

1 MS. EAGAN: So in our
2 department we've been discussing lately about how we
3 don't send you guys when we're changing codes. So
4 you guys kind of don't know what's happening.

5 Example, we have special occasion
6 regulations which you probably didn't know about. So
7 what we're going to start doing is notifying you guys
8 of what our changes are to our Code. If you have any
9 comments, let us know.

10 Also we are currently working on
11 rezoning the entire county. So if you guys have any
12 comments regarding that, please let us know. We're
13 hoping to get that completely finished by next
14 summer.

15 So those are the only things I wanted to
16 say.

17 CHAIRMAN UPCHURCH: Okay.
18 Thank you.

19 I entertain a motion that we adjourn.

20 MEMBER THATCHER: I'll second.

21 CHAIRMAN UPCHURCH: Those in
22 favor aye.

23 MEMBER THATCHER: Aye.

24 CHAIRMAN UPCHURCH: Aye.

25 MEMBER HEAD: Aye.

1 MEMBER FRANKENBERG: Aye.
2 MEMBER HOFF: Aye.
3 CHAIRMAN UPCHURCH: And we're
4 in adjournment.
5 (Thereupon, the proceedings
6 concluded at 8:32 p.m.)
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CERTIFICATE OF REPORTER

I, PATSY A. MAYBERRY, Professional Court Reporter and Notary Public within and for the State of Missouri, before whom the foregoing proceeding was taken, do hereby swear that: the aforementioned was held at the time and in the place previously described; the proceedings were taken down in stenographic notes by me and transcribed by me, or under my supervision, to the best of my ability; and that the aforementioned represents a true and accurate transcript of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand.

Patsy A. Mayberry, Court Reporter
Notary Public, State of Missouri

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