

The Muscatine County Zoning Commission met in the Board of Supervisors Office on Friday, January 5, 2018 with Chairperson Tom Harper and board members Virginia Cooper, Carol Schlueter, Clyde Evans, and Carl Kleppe Jr. present. Eric S. Furnas, Planning & Zoning Director and Dixie Seitz, Office Administrator were also in attendance.

Tom Harper: I will open this public hearing by reading the mission statement of the Muscatine County Zoning Commission. The Muscatine County Zoning Commission is a five member group of residents of the County who are appointed by the Muscatine County Board of Supervisors. We serve as non-professionals and without compensation. Our purpose is to advise the Muscatine County Board of Supervisors on managing the growth of the County. This involves reviewing subdivisions, rezoning requests, the use of public property, and reports related to land use policy and long range planning. Recognizing that our decisions will not satisfy everyone, we attempt to base our decisions on what is best for the long term interest of the County. We ask for your input, pro or con, on issues before us in order that we may formulate the best decisions possible. Please take this opportunity to share your thoughts and concerns with us. Our recommendations are not taken lightly by the Board of Supervisors, but the Board of Supervisors, your elected representatives, make the final decisions on all issues. Let's move onto the first item of business, Eric would you like to do that?

Eric Furnas: Zoning Agenda Item #01. Discussion and possible recommendation to amend the definition of "Family" as defined in the Muscatine County Zoning Ordinance.

Tom Harper: So for you that might have been here before at the previous Board of Adjustment meeting, this change was kind of brought to light because of that request. Is that correct?

Eric Furnas: That one and previous requests for building permits and we've kind of wrestled with this. Currently the definition of a family is: One (1) or more persons who are related by blood, adoption or marriage, living together and occupying single housekeeping units, with single kitchen facilities, or a group of not more than five (5) persons living together by joint agreement, and occupying single housekeeping units, with single kitchen facilities, on a nonprofit cost-sharing basis. It limits a family to a group of people sharing kitchen facilities. That's just one of the parts of the definition. It has come up more than once that people have requested to have two kitchens in a dwelling and it is not allowable under our code. I've tried to determine what the intent of having that single kitchen limitation would be and I've talked to the county attorney on this as well. We believe that it was simply originally installed as part of the definition to insure that we don't convert single family structures to dual or multi-family structures. I believe today that it's... there are a lot of very nice houses that have second kitchens in the basement. How they got there, I can't speak to, but it in no way makes is a dual family dwelling. And in some cases this portion of the ordinance is almost creating a hardship, such as the case that was just before the Board of Adjustment this morning. A couple has an aging set of parents living with them and they would like them to continue to live with them and in order to sustain some sense of independence they would like to add an addition that has a bedroom and another kitchen for their parents. It would be a part of the existing single family dwelling, fully accessible from the interior. And our definition of a family says that you can't have that so they had to ask for a Variance. So we believe that this is something that the Zoning Commission should consider. I think we can maintain some other safeguards within the definition of family to make sure that we are not providing a mechanism to allow for the conversion of a single family dwelling into something more than that. So I proposed an amendment that states:

Proposed New Definition of a Family:

One (1) or more persons who are related by blood, adoption or marriage, living together and occupying single housekeeping units or a group of not more than five (5) persons living together by joint agreement, and occupying single housekeeping units on a nonprofit cost-sharing basis.

A single housekeeping unit must share a common entrance and utilities. It may not be built or designed to provide separate access and function as a second residence and all portions of the interior dwelling unit must remain mutually accessible.

It removes the second kitchen limitation and it adds some provisions such as it shares a common entrance and utilities. It may not be built and designed to provide separate access and function as a second residence. All portions of the interior dwelling unit must remain accessible. So like the house, you can get to all interior parts without going outside to access.

Virginia Cooper: And that is enough of a safeguard to satisfy you?

Eric Furnas: Yes and the county attorney, I have taken that to them. I believe that this will allow them to have a second kitchen in their house but there are still safeguards within the definition of a family. They can't have any more than five unrelated individuals living in the house. It still goes on to describe a family by blood, adoption or marriage living together and occupying a single housekeeping unit or of not more than five or more unrelated. So they can have more than one kitchen if they want but it would still remain a single family dwelling.

Clyde Evans: This family and unrelated type of thing... seems a little bit fuzzy to me. For an example, I have five children and if we had a grandparent or something, in-law or an out-law moving in, that wouldn't be possible?

Eric Furnas: They would all be related by blood, adoption or marriage.

Clyde Evans: Okay. So it's just people off the street then?

Eric Furnas: Yeah, we had a complaint recently where they were concerned and I believe it was one of our local companies and they had some new employees that were completely unrelated living together and splitting the rent of a house in one of our nicer subdivisions. However, there were not more than five of them and it had a single kitchen, single utilities and that's legal. And I don't think that that is unreasonable. There are young college students that graduate and move in together sometime and share a house. As long as we are not creating multiple addresses, multiple utility bills and we keep it five or under unrelated, I don't think that we are going to see the conversion of a house ... that it looks like anything other than a single family dwelling. Subdivisions are still completely able to regulate the occupancy in addition and beyond what we decide.

Virginia Cooper: So with the family dynamic changing as it has been in the past decade or so and will continue to do so... I mean, kids are moving their parents back in with this, such as this case, you are going to be faced more and more with it. I am assuming that this language closely shadows what other ... because I'm sure that everyone across the board has had to deal with it or is getting ready to deal with it. So this is language that is pretty ... shared?

Eric Furnas: Yeah it is pretty common for counties to not have that single kitchen. However, if you say what it was prohibiting it was almost un-American to discourage ...

Virginia Cooper: Yeah. So other counties use the kitchen to control that?

Eric Furnas: I am not sure what other counties have. I think that is just a holdover from an earlier attempt to safeguard the single family dwelling. Our definition of a single family dwelling is simply a dwelling that is designed for a single family to live there. So then you have to refer back to family and that's where the kitchen issue came up. It doesn't say anything in the single family dwelling about the number of kitchens.

Tom Harper: And here again, the kitchen does not define the family.

Eric Furnas: Correct.

Tom Harper: You know, no matter how many kitchens... I mean, what if you have a house that has a summer kitchen, you know? Older homes had those.

Eric Furnas: Right and it's my opinion with the additional safeguards that we are proposing in the second part of the new definition, that it cannot be built or designed, provide access and cannot function as a multi-family dwelling. We have the safeguards there, so I think that we can remove any undo limitations.

Carl Kleppe Jr.: My only concern would just be the septic size, and it's just as he said. I mean, I know you have fats, oils and grease with the two kitchens.

Eric Furnas: But see my counter to that is whether I am using one kitchen or whether I am using two, it's still based on the number of people living in the house.

Carl Kleppe Jr.: Yeah, I understand but you are getting dual fats, oils and grease.

Eric Furnas: No you're not.

Carl Kleppe Jr.: How?

Eric Furnas: Well if I have nine people that live in my house and I only have one kitchen I am only preparing food for nine people, correct?

Carl Kleppe Jr.: Yeah.

Eric Furnas: So it is the same amount of waste that's going down one drain or if I'm going to split it into two, it doesn't matter. So that's why we use bedrooms to size the septic systems.

Carl Kleppe Jr.: Well in my opinion I would think it would be more.

Eric Furnas: Well I don't think that people eat anymore whether they are preparing four meals here and five meals here or whether they are preparing nine meals in a single kitchen. So I get what you are saying but the number of bedrooms that people have in their homes are going to directly affect the size of a septic system.

Carl Kleppe Jr.: Correct.

Eric Furnas: So in that case... and he is aware of that that if he adds two many bedrooms that he is going to have to upsize his septic system.

Virginia Cooper: So that language... this language doesn't have to say anything about the septic system because that's the next level if they go to that?

Eric Furnas: Yes it is our policy that if they have a certain size of septic system, depending upon the number of bedrooms that you have... that's what dictates if you have to upsize the septic system.

Tom Harper: Yeah that's already accommodated by the health part of it.

Eric Furnas: Yes and it's based on bedrooms.

Carol Schlueter: So all we are really talking about is just the kitchen, it doesn't have anything to do with the number of bathrooms?

Eric Furnas: Right, there is no limit on the number of bathrooms. And it is the same thing as the kitchen waste, a family of four sharing one bathroom produces no more waste than a family of four sharing four bathrooms.

Carol Schlueter: But they can put additional bathrooms in, we are just talking about kitchens?

Eric Furnas: Right.

Virginia Cooper: Right, this kitchen thing doesn't make any sense.

Tom Harper: So there is nothing preventing them from putting any addition onto that house, other than a kitchen?

Eric Furnas: Right.

Virginia Cooper: Well I recommend that the Zoning Commission recommends to the Board of Supervisors to amend the definition of family as it is currently defined in the Zoning Ordinance.

Tom Harper: Are you making that as a motion?

Virginia Cooper: I move too... yes, sorry.

Carl Kleppe Jr.: I'll second it.

Tom Harper: A motion has been made to recommend to the Board of Supervisors to amend the definition of a family and it has been seconded. Is there any further discussion? Hearing none, all those in favor of the motion please say Aye (5) Opposed (0). The motion carries. The next item Eric?

Eric Furnas: I will further add that our public hearing remains open and I don't believe that it was necessary to close the public hearing. We will need to close the public hearing before the end of this hearing.

Tom Harper: Okay.

Eric Furnas: Zoning Agenda Item #02. Discussion and possible recommendation to amend the Muscatine County Zoning Ordinance by adding the definition of "Satellite LP Storage Facilities" and by adding it as a Special Use Permitted within the A-1 Agricultural District. Recently I had a conversation with an owner/operator from the Durant area that approached me about getting a permit to add a satellite LP storage tank out in the county for a farmer who he is acquainted with. He said that he would let him lease a small part of his ground in order to place a large storage tank in the Letts area in this particular case. This operator, his office, his staff, his trucks all come out of Durant. He goes all over the county to distribute LP to people's private LP tanks for their houses and farm buildings for heating. He's down in other parts of the county and he is limited to what he can haul on one of these straight trucks, which all of them are. He then has to drive back to

Durant to fill up again to go back to make more deliveries in the Letts area. So he inquired about satellite tanks.

Tom Harper: It's the same as what is already existing on Hwy. 38. But that started out as a lease and a Variance. Then they ended up rezoning that when the property was sold.

Virginia Cooper: Where is this at?

Eric Furnas: Right, and I will get to that. So this distributor wanted to know how he could go about getting a permit in place a bulk storage tank, just like what you see on Hwy. 38 on Denny Hetzler's property, but he has since sold that to River Valley.

Virginia Cooper: Oh, okay.

Eric Furnas: So a lot of these gas companies have these satellite storage tanks, it's nothing more generally than one or two large storage tanks that are fenced in and that's where the delivery trucks can go to for shorter deliveries to the rural customers. You can see the benefit and the price that would get passed on to the customer if they aren't having to add another 30 miles each way in going back to their office in order to go back to the same area to finish the delivery route to the rural customers. Previously we had only allowed these LP storages in industrial areas. Hetzler's property had gone through the rezoning process in order for River Valley to operate that satellite storage facility. And that's really all that it is, they park a truck there overnight inside a chain link fence and the tank is there. One driver goes there, gets in the truck and leaves, there are no employees there, there is no office there. As I looked at that, to me that is almost spot zoning. We rezoned a small portion of ground, very small portion of ground in that case to I-1 or I-2, I don't remember which one, regardless it was to industrial, but it was to facilitate one very minor operation. However, we lose control over that site in the future. It's now rezoned to industrial. If River Valley decides to sell it, somebody could put a hog carcass rendering facility there. Anything that is allowed in industrial could go there. And there is no other industrial facility around it. So I really don't know if that's a great idea to keep spot zoning. We recognize that we want to accommodate that type of usage but it's really not appropriate for a Variance either. So I started looking around and thought about just having a satellite storage in an A-1 Agricultural District. Currently they are only allowed in industrial zoning, and there is only a rezoning provision and I don't think it's appropriate. If you look at these LP storage facilities, much of them are directly ready to service ag clients and rural residences. Everybody in the country has an LP tank if you are outside natural gas. Most of the big farmers have big bulk tanks of their own now. And so I am proposing and asking you that you consider an LP Satellite Storage Facilities as a special permitted use, which would mean that the case would still have to come in front of the Board of Adjustment for review. So these gas companies might be able to have a storage tank here and there in the county, with specific safeguards on them. Would you want to make a recommendation to allow LP Satellite Storage Facilities as a special permitted use under the A-1 Agricultural District?

Virginia Cooper: And that's the only thing that it can be used for? If they go out of business then what happens to it?

Eric Furnas: That is the only thing that it can be used for, if it is in the ordinance and that's how it listed under special uses.

Tom Harper: So once they would cease to use that facility it would revert back to the farmer.

Eric Furnas: Well even during or while they are using it for a LP Satellite Storage Facilities they can't expand into other industrial uses because it's not zoned for that.

Tom Harper: Right.

Virginia Cooper: How do the surrounding counties deal with it?

Eric Furnas: I put a question out there but I didn't get any responses.

Virginia Cooper: Okay. Did you actually go and look at any of their special uses? I mean, online?

Eric Furnas: I have not seen any online like this, no. And to be completely honest with you it is really incredible how varied county ordinances and zoning is. I mean, even just the surrounding... Scott County is night and day different from us. We are night and day different from parts of Cedar County, certainly Louisa, and then Johnson County is a whole other beast. It is hard to find similarities. I just looked at the other special permitted uses in the A-1 Agricultural District. Like things that we have already recognized that could be considered like grain elevators and grain holding facilities and that type of thing. So if you look at the potential impact, is this anything worse than some of the other special uses that we have already acknowledged and are they generally compatible with the uses in the A-1 Agricultural District? One of the needs of the A-1 Agricultural District is generally LP.

Virginia Cooper: So how many LP dealers... how do I want to put this? So there's one on Hwy. 38 and I don't know how many companies there are... what's the likelihood that there will be a lot of companies once we get this going? A lot of companies will say, now I can do this and this is much easier so I'm going to put one here. So they might pop up.

Eric Furnas: I would anticipate that there would be some increased interest in this because it does make sense.

Virginia Cooper: And it is a money saver.

Eric Furnas: That's why if you look further down on my recommendations I think it would be very appropriate to establish some limitations and safeguards, just like we do on some of the Board of Adjustment applications for a Special Use Permit. We allow certain houses in A-1 Agricultural District if you are not a farmer. We say you have to be so far away from any other houses, from state livestock facilities and it has to be on less than prime farm ground and we look at how close it is to paved roads. I would say that if this is something that you want to consider than we should limit it to these facilities to have frontage along paved roads. That request came directly from the County Engineer because the bulk storage tanks are going to be filled by semis. It's a straight truck that takes it to the individual farms. But the delivery vehicles that will probably come a couple of times a week will be by semis. I don't think that we want to encourage anymore heavy traffic on secondary roads than we have to. If you look... there are a lot of potential locations off of G28, off of Hwy. 22, Hwy. 70... there is always a farmer that is willing to lease a small area, say 300 by 300 to someone.

Carol Schlueter: I don't think a paved road is necessary. I really don't. I don't see how you can... there's a lot of farmers that don't live close to that.

Eric Furnas: I'm not saying that the delivery vehicles can't go off, I mean with that individual truck for deliveries. I'm just saying this site that holds the

storage tanks should have access because a semi is coming to that site for deliveries maybe twice a week or so.

Carol Schlueter: Okay, maybe I don't have this right, you said that the tanks have to be close on a paved road?

Eric Furnas: Yes, right that is my recommendation.

Carol Schlueter: See I don't agree because to me... a semi wouldn't... the trucks that haul grain and everything that are out on a gravel road, this truck delivering will probably only be once a month... I don't know how often they deliver. Once every two weeks?

Eric Furnas: I bet it is more like twice a week.

Carol Schlueter: Well it depends upon how much they take out of it and how big the tanks are there.

Eric Furnas: Right but I think that we need to do what we can to avoid encouraging more heavy traffic on secondary roads.

Virginia Cooper: Will those roads be able to accommodate those semis and also, what if there is a little bridge on that? I mean, a lot of those gravel roads have those... and we ran into that on Lindle Avenue where it couldn't even accommodate the combines that were crossing.

Tom Harper: But the thing of it is as long as those semis are delivery feed and grain and supplies to the farmer or farms, since that is a farming related activity, there is nothing that we can do about that. Here is a case where we are potentially adding traffic that is potential not ag related.

Carol Schlueter: Oh yeah its ag related. The LP goes to farms, it is for corn drying... it's all ag related.

Eric Furnas: Well it's not an ag related business that is ag exempt. This is a commercial business.

Carol Schlueter: I understand that... that his business is. But he's delivered everything to farmers.

Eric Furnas: This was a specific request from the County Engineer when I had him look at it.

Carol Schlueter: I have a problem with that.

Eric Furnas: And that's fine, you can make that as your recommendation to take to the Board of Supervisors. I will almost guarantee that the supervisors won't want heavy traffic on secondary roads.

Carol Schlueter: Because then the person that wants to put up this thing is going to be very limited to where he can go with it and maybe that farmer isn't going to give him the ground.

Eric Furnas: If you look at the number of paved roads that we have dissecting the county, you know, you have Hwy. 70 that runs all the way to Conesville... if you are looking for a place in the Southwest portion you have Hwy. 22, west and east, you have Hwy. 61, you have G28, you have F70.

Carol Schlueter: But you have to find somebody that's willing to lease you ground.

Eric Furnas: I don't think that that would be a problem based on what they get paid for acre.

Virginia Cooper: So just to find a middle ground, can you say that it can be on gravel but only so far from pavement to gravel?

Eric Furnas: You guys can make whatever kind of recommendation that you want. This was just something that the County Engineer asked for.

Tom Harper: I don't think that it's necessarily up to us to put the requirements on it. I mean we just recommend to the Board of Supervisors to add this as a special use permitted and let them decide on the requirements.

Eric Furnas: Well they often look for you folks to do that. I think that there should be some provisions.

Tom Harper: Well we can agree with some but not all of these requirements.

Eric Furnas: Well what is your feeling on separation distances? Should we require these sites to have a minimum separation distance from a structure?

Virginia Cooper: Yes without a doubt.

Tom Harper: Yes we should.

Carl Kleppe Jr.: Yeah because if that baby goes, it could take the whole farm.

Carol Schlueter: How close is that one to the house on Hwy. 38?

Eric Furnas: I don't know.

Virginia Cooper: I think that one is really close.

Tom Harper: No not really.

Eric Furnas: It's really not that close.

Virginia Cooper: It seems like it.

Eric Furnas: It might be 750 feet or so. My recommendation was 750 feet from an occupied structure.

Virginia Cooper: Well I would cry if the guy that owns the house isn't the same guy that leases the property and all of a sudden it's only 750 feet between me and the thing that he's putting in. I would cry if I was that homeowner.

Carol Schlueter: You say occupied, so you mean that someone is living in it? So it could be closer to a barn or a facility?

Eric Furnas: My personal opinion is that they should have at minimum separation distance from any other structure.

Virginia Cooper: Yes for safety reasons.

Eric Furnas: So what that distance is, you folks give me some feedback on what you think.

Carol Schlueter: I would like to know what this one is out on Hwy. 38.

Tom Harper: Well it has to meet the state fire marshal and the NFPA.

Carol Schlueter: So what is that?

Eric Furnas: Well that depends upon the size of the tanks. But that was the final part of my recommendation is that whatever we are proposing and that it must meet all state fire marshal and NFPA. But they are not going to permit it anyway if it doesn't meet their requirements. But we can allow for additional safeguards if that's what we want to do.

Virginia Cooper: So until we see those figures though... do we really want to say because what if those... what if the one on Hwy. 38 actually meets the fire marshals also and so it is a different concept than what we are thinking. You know, they are satisfied with it but they have a house right next to it.

Eric Furnas: Again, the fire marshal regulations depends upon the total capacity of the site. One of my recommendations was to limit this to a certain gallon capacity.

Virginia Cooper: Yeah I see that.

Eric Furnas: From what this distributor was talking about and from what I see, most distribution sites are no more than two 30,000 gallon tanks, so a total of 60,000. This guy thought he would only put up one 30,000 gallon. So we should probably set some limits on... I mean we don't want to encourage it so that they want it to be their main distribution center either. So now I've got three 30,000 gallon tanks here so why don't I just put my office here and make this my main place. But the whole idea is just to make this more convenient and cost effective for the rural customer.

Virginia Cooper: Yeah and I do think that we should be making the recommendations to the board, at least for them to consider. Because you are talking about a chain link fence and how they're turning around.

Tom Harper: Well as far as separation, what do we call for our separation from rural residences – 750 feet?

Eric Furnas: Yeah that's the minimum, the recommendation is 1,250 feet but you often go with the 750 feet.

Carol Schlueter: Yeah to me 750 feet is good.

Clyde Evans: Is the concern with the propane damage from an explosion?

Eric Furnas: Potential yes.

Tom Harper: I mean where was that just over the weekend they had a delivery truck that blew up somewhere around here, either in Illinois or Iowa somewhere close by?

Eric Furnas: Well also those guys can start pretty early and I wouldn't want to have one right next to my house and they are pulling in there at 5 a.m., firing up the trucks and letting it warm up.

Tom Harper: Well the semi might not come in there at 10 o'clock in the morning, he might be there at 2 a.m. in the morning.

Eric Furnas: Yeah the semi delivery guys could be any hours of the day.

Virginia Cooper: Well one of the other things that bothers me is that when we did the early planning stages of the Comprehensive Plan, one of the general recommendations that we made for anything going in new, whether it's a new subdivision or something that's zoned industrial or ... that we ask the

builder to accommodate for aesthetics so that we are not running into an eyesore. So if you are going to accommodate a chain link fence, which I think is necessary just for safety reasons, but if you are going to ask them to accommodate a chain link fence, I think that you should ask them to accommodate ... to make it aesthetically pleasing. I mean, whether it is next to a house or you are driving down the road, and you know, boom there's tanks. You know there might be two or three different companies. Nobody wants to look at that. I mean it wrecks your view.

Carol Schlueter: So what do you think about the one up here on Hwy. 38? What should they do?

Virginia Cooper: It's too late, we can't fix that.

Carol Schlueter: But what would you change about that one?

Virginia Cooper: I would ask them to do a planting surrounding it so that we didn't have to look at it.

Carol Schlueter: Really?

Eric Furnas: Vegetative screening?

Virginia Cooper: Yeah, screening. Just like some of the problems that they are having with the city comprehensive plan now the stuff that was farmed in from before, you have ugly corridors. You can't make somebody come back and cover that crap up to look at it. But it's what everybody sees when they pull into town. You can't fix it later, but you can ask them to do it now. And you know, putting in plantings to me is a pretty minor cost when you are building the facility.

Eric Furnas: Yes and in certain parts of the country that is actually pretty common.

Virginia Cooper: Yeah because we pulled stuff from Johnson County, Colorado... and places around where things are turning green. Nobody wants to look at this anymore.

Eric Furnas: Yeah it just depends upon the county. You know, rural counties tend to have less regulations. But areas in Colorado require that new cell towers look like trees.

Virginia Cooper: Oh yeah... I mean some of it is way overkill.

Eric Furnas: But yeah that is certainly something that I am looking for and that's the board's decision, whether you want to require this or what don't you want to require. I mean, I think that there should be some minimum requirements for separation distance. The truck turnaround area, I don't believe it is required by the DOT ... but I see that as a very good idea. So they are not trying to back a tanker truck off of a road whether it's gravel or a paved road, that's not that much more ground for that. We don't require them to pave it. It can be large two-inch rock just as long as they don't back up onto the highway, that's a safety issue. Or whatever else that you want to include, I want to hear.

Tom Harper: I'm sure that the truck drivers would prefer to pull on instead of back on.

Eric Furnas: But you know as well as I do that if we don't make this a requirement somebody might try to say every penny and just say, they can back into there.

Carl Kleppe Jr.: Yeah and you can make it a certain size that they have to abide by, you know as far as square footage.

Virginia Cooper: Yeah because now is your chance because if you don't like the one that's on Hwy. 38, you know there's nothing you can do about it now.

Tom Harper: I don't think that there's anything wrong with the one on 38.

Carol Schlueter: Me either. I don't think that there is one thing wrong with that.

Carl Kleppe Jr.: Yeah it always is mowed nice.

Carol Schlueter: Yeah it's mowed nice, I think it looks nice.

Eric Furnas: Well that is actually the premises for bringing this to you is because that actually works, I think. I have not heard one thing about that.

Virginia Cooper: Well I think it is a good idea.

Tom Harper: Once the tank was there I think that Denny added that grain bin there.

Eric Furnas: Yeah and he was allowed to do that under a farm exemption. And he can't come back after the fact and that's his risk.

Tom Harper: Yeah I know but I think he just thought that it made sense because he could share the driveway.

Eric Furnas: Yeah but now it is split off because he's actually sold that portion. But you are not necessarily going to see parcels split, they might just lease them.

Tom Harper: Yeah but if they do this they are probably going to do it in the middle of the field or somewhere on the corner.

Eric Furnas: Yeah I think the farmers are going to want it on a corner. Probably where there is an existing entrance already.

Tom Harper: Yeah they are not going to want to make any hardship on them for farming it.

Clyde Evans: Can you distinguish a little bit for me the difference between spot zoning and special permitted use zoning?

Eric Furnas: Okay spot zoning is essentially creating a zoning district very randomly out in the middle of the county. Generally we've seen ... that Hetzler property in my mind is a great example of it. There was someone that had a request for a proposed use and we zoned something really to accommodate that single use when we wouldn't have rezoned that to industrial necessarily for just a blank canvas. The Comprehensive Plan talks about zoning districts like industrial or commercial should be located in areas that are adequately separated from residential, that can accommodate the heavy equipment, the noise, the nuisances. Commercial districts, we have two types. Some are more compatible being right next to residential, which is C-1. C-2 is busier or more intense and it may not be what you would want right next to your subdivision. We often grow out from existing districts. The whole island area, for an example, is industrial. We set aside a huge area that we are not allowing any more residential development. We want this to be able to accommodate future industrial growth. This is an area that is supported by river and rail. This is a good area for heavy industrial, everybody knows what is down there. If we go out

in the middle of... like where Carl's house is on North Mulberry right outside of some residential use but he is A-1, it's not necessarily a good idea to plop down a very small industrial zoned district. A special use is not changing the zoning of the district. It is saying that there is a limited number of things that the county recognizes are generally compatible with that zoning district. So for an example A-1, what are some things that are generally compatible with A-1? Cell phone towers, we issue Special Use Permits for towers. For dog kennels, they can go in in certain areas as long as they meet minimum separation. Things that are not going to automatically necessarily create a nuisance issue with the other uses that are going on within that zoning district. It is still something that we want to provide some oversight for on a case by case basis, therefore it is a special use. We may allow this but only after the Board of Adjustment looks at the specific case.

Tom Harper: If it is a permitted use in that district they can automatically do it. But a Special Permitted use, you have to make an application to the Board of Adjustment so that it can be reviewed before it is approved.

Eric Furnas: Right. I just thought that with this LP Satellite Storage Facilities I think... we know that they are a necessary support component to agricultural or rural living. Their impact, if handled correctly and limited in scope, is pretty minimal. The road thing and the bridge thing... is on the minds of the Board of Supervisors and the County Engineer's Office all the time. They are very frustrated because there's nothing that they can do about it. They support agricultural but agricultural today is almost a big impact on the county roads and there's nothing that they can do. So their feeling is ... well what are we doing about things that we can something about? Do we want to make it any worse? Because if we allowed this without any hard road stipulations and then we put an embargo on the road that we allow this company to have this business here, we basically have encouraged him to go to the County Engineer's Office and ask for special permission to tear up the roads. It's just a thought. But if you folks feel like they shouldn't just be on hard surfaced road, then make a recommendation. But the County Engineer was pretty concerned about it and just didn't wanted to encourage anything more that what we had to.

Tom Harper: Yeah and I think that they have enough problems keeping up the gravel roads and that they don't need to ...they need help on it.

Eric Furnas: Yeah and he admitted that probably the bridges is probably the bigger issue when it comes to delivery vehicles. And you know gravel roads may not get embargoed but we have a lot of bridges out there that are embargoed 365. So would we want to encourage development in an area that would use an embargoed bridge? And what is he really accomplishing if he has to agree to half or quarter loads in that semi?

Tom Harper: And another thing that I just thought of too, we are saying satellite LP storage, we don't want to open this up to anhydrous.

Eric Furnas: No this is satellite LP storage only, anhydrous facilities and fertilizer dealerships are still different. In my mind this would be limited to LP storage and to a certain amount of capacity, this is just a satellite facility. We don't want this to grow into a trucking terminal. This would just be a regional distribution place only.

Tom Harper: I just want to make sure of that. But this is hardly anything new, there has been several over the years. I mean there use to be an LP company in Muscatine, they had their storage here in Muscatine but they also had LP in Illinois and part of that was because of taxing. A truck would go from Muscatine to Illinois empty and fill up over there and come back.

Eric Furnas: Yeah your co-ops and your main distribution facilities where they have their offices and where all the truck drivers go, those would have to be in the appropriate districts. This is just for a limited satellite distribution to alleviate and help with the cost of the travel time. It would be to better serve the rural areas, but we want to keep it fairly limited anyway.

Carl Kleppe Jr.: I would agree with the paved road access for the wear and tear on the roads and with the bridges. You get on those county roads and we are in the middle of summer and now you have dust and you have that semi and now you have 30,000 gallons... because that's what he's hauling, correct?

Eric Furnas: I don't know that a semi can haul 30,000 gallons.

Tom Harper: No way, I'm think 8,000 to 10,000.

Carl Kleppe Jr.: Yes you're right, 10,000 gallons.

Eric Furnas: And the tanks that you normally see out in the county holds about 30,000 gallons.

Tom Harper: The other thing too most of their traffic or their miles are going to be put on in the winter half of the year.

Eric Furnas: Yeah more so.

Tom Harper: Yeah more in the winter half than the summer half. Which makes it more treacherous for them anyway.

Eric Furnas: Yeah that delivery vehicle is going up and down those roads regardless whether he is coming from Durant or that satellite facility. He's got to get to the customers houses. It's not the delivery vehicle per say because there are always going to be straight trucks to get into the farm or barn yards. It's the big semis that are keeping the bulk tanks full that we are looking at because we would be increasing semi traffic where we don't particularly have to.

Carol Schlueter: But to me this would be so much less than the semis on there. I just don't go for the paved road at all. I don't think... I think you are taking it away from somebody that wants to do something like this and they would have to look for a location on a paved road.

Virginia Cooper: Well we can start with paved road and then ...

Carl Kleppe Jr.: Well each one has to go through the board for this special permit.

Virginia Cooper: Yeah if they would be done individually... and then later on if we need to amend it, maybe in a couple of years, we see how things go or if the Board of Supervisor thinks it needs to go in a different direction.

Eric Furnas: The idea of introducing stipulations, I think, on a Special Use Permit is when the petition comes to the Board of Adjustment if they are clear cut it makes it very easy... it makes it much easier for them to make the decision to either approve or deny. If there is a safeguard that needs to be in place for the county we need to put it in a stipulation. It would make it harder for the Board of Adjustment to approve it if there is a concern and it is not addressed in a stipulation. If there's not a concern, don't address it in a stipulation. That was just something that the County Engineer requested and I was just throwing it in there. Ultimately the Board of Supervisors will make that decision, you know? This was a proposed idea.

Carol Schlueter: As much wagons and grain and everything on the gravel roads, this one semi isn't going to make that much difference on there, but that's my opinion.

Virginia Cooper: I'm trying to seek out six or seven target points here. They are all good.

Eric Furnas: Well let's just go through them one by one. Separation distance, do you have a feeling on that?

Tom Harper: Well I thought we stated 750 feet to 1,250 feet, that and what the codes are.

Carol Schlueter: Right the 750 and whatever the state fire marshal is, right?

Eric Furnas: Well we are saying we would establish the minimum distance. The fire marshal might allow you to go within 500 feet, but we are saying that we'd like it at least 750. Or if the fire marshal says because you have two 30,000 gallon tanks you need to be at 500 feet. We can be more aggressive than the state fire marshal but we are never going to be less. So do we want to add in a little more, say 750 for ours and if the state fire marshal happens to make it tighter, so be it.

Carol Schlueter: Yeah I think 750 is good.

Virginia Cooper: I agree.

Eric Furnas: Okay so we will look at recommending that. How about a fenced in property?

Carol Schlueter: Yes chained fence, kept trimmed and cut nice and well maintained. To me it don't have to have any other stuff planted around it.

Eric Furnas: I hate to be this way because I know it will come up, minimum height of a chain linked fence so somebody doesn't just try to do a four foot fence? (everyone talking at once)

Tom Harper: Yeah I'm thinking six to eight feet.

Eric Furnas: Okay so a minimum of six feet. I don't think that they have to have barbed wire on the top of it. So a lockable six foot fence.

Clyde Evans: So this is to keep people out?

Eric Furnas: Yeah to discourage people from tampering with the equipment and for safety.

Tom Harper: I'm not so sure that River Valley up there has a fence all around it. The truck is fenced in and I think the pump is fenced in, but that's all.

Eric Furnas: Yeah and I believe that that is a state fire marshal requirement, that the pump and components have to be secured. I just threw that out there because I think there are options.

Virginia Cooper: I like it that the whole thing is fenced in.

Carol Schlueter: I think the whole thing should be fenced in.

Eric Furnas: Yeah so that people can't go up there and vandalize the tank with spray paint or whatever they are messing around with. It's not that big of an area. How about a maximum gallon capacity?

Carl Kleppe Jr.: Sixty thousand?

Carol Schlueter: Yep.

Eric Furnas: So no more than a total capacity of 60,000 gallons? I think that would accommodate a lot of the needs and it would go a long way.

Tom Harper: Yeah and a tank is a lot of money and they aren't going to put one in there unless they are going to need it.

Eric Furnas: Yeah most of the tanks are easier to set when they are just 30,000 gallons, that's what you see around. Hetzler's only has one at that site. How about a truck turnaround area?

Carl Kleppe Jr.: Yes.

Carol Schlueter: And that would be inside the chained linked fence, right?

Eric Furnas: I guess I wouldn't care if it wasn't.

Carol Schlueter: Well I guess I don't know how big of an area that would have to be.

Tom Harper: Well that wouldn't need to fence in the entire property, just the tank and the truck parking area fenced in.

Eric Furnas: How about if we say all structural components must remaining inside the fenced area, which would be the tank itself, and the pump and the control unit.

Clyde Evans: A lot of them leave a truck on site.

Eric Furnas: Yeah a lot of them do leave the straight truck on site. The employee comes there early in the morning, parks his personal vehicle and gets in the straight truck that he uses for deliveries and then he goes home from there. You never see more than one employee's vehicle parked there. And when his vehicle is there usually the straight truck is gone, do you know what I mean?

Tom Harper: Yeah so basically they are running off of a route system anyway. River Valley, that truck is not there all the time.

Virginia Cooper: So they just need to put the fence up around the tank, the truck and then their turnaround area would be ... maybe around that or should it be inside?

Eric Furnas: I just think that the site needs to provide a truck turnaround area that would ... basically it needs to be developed so that you are not required to back off onto the road. So it needs to have direct access to and from the highway without backing on and off. I'll come up with that specific language. Paved road, what are your thoughts on that? I need direction.

Tom Harper: I say that it should be on a paved road.

Carl Kleppe Jr.: I do too.

Carol Schlueter: I don't. I mean, I think you are taking it away from people that would want to give it or a farmer that has the room and wants to be able to lease it to somebody to use. But if they aren't on a paved road, they can't do it. So you are restricting where it can go.

Carl Kleppe Jr.: Yeah somewhat, yeah absolutely.

Carol Schlueter: And you say a bridge... well that truck's not going to go over a bridge that won't carry his weight.

Tom Harper: Oh don't say that. (everyone talking at once)

Carl Kleppe Jr.: At two in the morning if they can go one mile compared to ten, that's not a question.

Virginia Cooper: I think it should be on a paved road otherwise you are looking at problems down the road. You know, we are going to answer questions about that if something comes up.

Eric Furnas: Well I think I am hearing a consensus at least about these provisions. Again, any motion you make the Board of Supervisors will look at it. They just want you people to give them some direction and a recommendation.

Carol Schlueter: But that's what I was wondering, are you going to write this up saying we recommend this or are we going to have this go to the next meeting or is this going to be done today or what?

Eric Furnas: That's up to you. If you feel comfortable with the stipulations that we've made and you feel that we have discussed it enough ... or I can bring it back next month in word form.

Virginia Cooper: Well I'd rather see it in word form next month. I mean, if they've waited this long they can wait another month.

Eric Furnas: I'm fine with that.

Virginia Cooper: I guess I would like to see some language that discusses... you know that it's not an eyesore. And if the board decides not to go with that, then they decide not to go with that. But I don't want somebody coming back to us in five years and going ... why would you let that eyesore happen here?

Eric Furnas: Then I guess before I put something in writing... that's something really that would be worked out in the process of you folks making a motion and having all the stipulations. If I write something that says requires vegetative screening and the other four commission members are not in agreement with you, somebody's got to make another motion.

Virginia Cooper: Well we don't all agree on the paved road and you are going to write that one down.

Eric Furnas: Well I'm trying to narrow it down with the majority of the members.

Virginia Cooper: Okay, I understand.

Eric Furnas: I just don't want to make the next meeting any longer than it has to be, so I'm going with a consensus.

Virginia Cooper: No, if they want to let that go than it's fine. I'm just trying to once again prevent stuff in the future with somebody coming in and saying, you know, when you did that why didn't you ... So if they want to leave that out, I'm okay with that.

Eric Furnas: Well I just think... otherwise I'm going to bring back something like a Carol's version, a Virginia's version, and you guys would have to vote down one just to get to one version.

Tom Harper: No, that's fine. If you can come up with something that says that the site plan must address the aesthetic value.

Carol Schlueter: Yeah keep it general.

Tom Harper: Don't say that it has to have so many trees or whatever.

Eric Furnas: Well this is a Special Use Permit where there is some latitude and ability to encourage things like that. Just like with the rural residence there is often a give and take. Like the CSR is a little high but it meets the separation distance, things like that.

Virginia Cooper: So that's why I am saying now is the time instead of later when it comes back to bite us.

Carol Schlueter: But if somebody comes in for a Special Use Permit for this purpose, can't we put a stipulation on that one?

Virginia Cooper: But they all need to be the same, don't they?

Eric Furnas: Yeah it gets difficult to put stipulations on it because that's where you would come up against the arbitrary and capricious. You know, you make one person do the vegetative screening and then another person you don't require of it...

Tom Harper: Yeah say someone comes in on Hwy. 61 across from the trailer park or right next to Jimmy Sells junkyard we are going to have a hard time selling it that they have to plant trees or withhold their permit, you know?

Carol Schlueter: Right, I agree.

Clyde Evans: I noticed that you and Carl jumped pretty quick on that idea for a paved surface, or a hard surface... what about the farmer that doesn't live on a hard surface or paved surface?

Carl Kleppe Jr.: Well he is still going to get the LP delivered.

Eric Furnas: Yeah this doesn't prohibit the delivery vehicles from going to the individual farmers.

Tom Harper: It's just the semis that are hauling 5,000 to 10,000 gallons.

Clyde Evans: Okay.

Tom Harper: I mean he does cause a lot of traffic, it's 25,000 pound traffic, not 80,000 or 100,000 traffic. That's a big difference on that gravel road. Hopefully the paved road that it would be located on would be designed for that kind of traffic.

Eric Furnas: Yeah they are and that's why I said paved and not seal coated because seal coated roads get embargoed all the time.

Tom Harper: But not all of the paved roads are Portland cement.

Eric Furnas: Right.

Clyde Evans: Well it sounds like you have a consensus here. Do you need a motion?

Eric Furnas: Well just let me be sure, so I will bring you a potential working version and the intent is to provide provisions for a minimum separation distance of 750 feet; a requirement to have all structural components, including tanks, switching control within a six foot tall lockable chain-link fenced in area; no more than 60,000 gallons total capacity, whether it be one, two or three tanks; provide for a truck turnaround area; and be located off of a paved road. I didn't hear a consensus about the vegetative screening.

Clyde Evans: It makes sense.

Carol Schlueter: I don't think it's necessary because I mean the one on Hwy. 38, there's nothing wrong with the way that looks out there with the gravel and the way it's maintained. But that's my opinion.

Tom Harper: I'm not thinking it needs it.

Carl Kleppe Jr.: Yeah and I'm not thinking that it needs it either as long as they maintain it.

Eric Furnas: This is something that if next month Virginia wants to make a motion to recommend this and require vegetative screening, then you guys could vote on that motion. If she gets shot down than somebody would need to make a new motion without that provision. I just thought I would try it simple and get it where you are not having to make amended motions all the time. But I can certainly do that and have you vote at that time. You can give it some more thought.

Tom Harper: Do we have any more cases in the ordinance where we are requiring them to have vegetative screening?

Eric Furnas: Junkyards are required to be screened and to be enclosed, but not by vegetation. They can put up sheet metal fences, because they have to be enclosed.

Tom Harper: But the cell tower ordinance, none of that?

Eric Furnas: We don't currently have an ordinance in the county that requires anything to have vegetative screening or a privacy fence.

Tom Harper: I'm not trying to justify it or to not justify it.

Virginia Cooper: I thought we did. Maybe it's the city that I'm thinking about.

Eric Furnas: Yeah the city is making them put a lot of vegetative fencing in between the residential and commercial. They are considerably more rare in rural counties.

Virginia Cooper: Yeah and I don't know but when I look at the city's ... you know the projected area is pretty far out in the county, it's a couple of miles or whatever... I don't remember but it's where those two meet. I don't know, I guess I was just trying to avoid problems down the road. And especially if we are working on a special permit that we are already ... it leans itself towards some of those things as opposed to you know, a permit that we've never done that before or we can't accommodate that. And yeah, I can just ask that it be amended next step, that's fine.

Eric Furnas: We might be able to achieve some pressure towards that type of thing and avoid the arbitrary and capricious accusation language in there, by just saying depending upon the proximity to residential use... there are some cases where you can put that on.

Virginia Cooper: Yeah maybe just a general statement.

Eric Furnas: Or you can say vegetative screening should be considered when it's close in proximity to residential.

Virginia Cooper: Yeah I would have to see some language examples, I guess. And the only language examples I am remembering are the ones that we put into just general subdivision and planning for things in the county.

Eric Furnas: Right, well within residential subdivisions I don't think you would be having any opposition. You know, but we are talking about pretty isolated rural areas here.

Tom Harper: And if it's not in there that they are required to do it than its to their advantage and they are going to maintain the property anyway by mowing it, weed control...

Virginia Cooper: And if it is not necessarily gravel roads, the other thing was they are going to be main roads and they are going to be pretty major thoroughfares most of the time. So it's going to be highly visible, so you know, how do you want it to look? If you want it to look like 38 than, you know, that's fine. So just let it go for now.

Tom Harper: And then the last thing it says that it has to meet all applicable ... the fire marshal, the industrial standards, codes. I mean they aren't going to get the insurance unless they are up to code anyway.

Carl Kleppe Jr.: Yeah, meet or exceed.

Eric Furnas: Yeah that's kind of a no-brainer. The fire marshal gets ultimate approval, whether we approve it or not. And vice versa, we had it happen where the fire marshal gave them all their permits and they didn't get the county permit. So the fire marshal doesn't wait for our approval and we won't necessarily wait for theirs. But they have to get it, like he said, or their insurance company won't allow them to start.

Tom Harper: Yeah but it's not going to hurt to say that fire marshal thing in there.

Eric Furnas: Well I will work something up then. So if this is all the discussion that you want to have you can close the public hearing.

Tom Harper: Unless anyone wants to make a motion to go ahead and recommend this if not, than I will take a motion to adjourn the public hearing.

Clyde Evans: I would like to make a motion to recommend to the Board of Supervisors approval of this.

Carol Schlueter: Without reading it in hard copy?

Eric Furnas: You can probably go ahead and close the public hearing first and then you still can have more discussion if you'd like.

Tom Harper: Alright is there a motion to close the public hearing?

Carl Kleppe Jr.: I'll make a motion to close it.

Tom Harper: Is there a second?

Clyde Evans: Second.

Tom Harper: A motion has been made and seconded to close the public hearing. Any other discussion? All those in favor of the motion signify by saying Aye (5) Opposed (0). The motion carried. Now do you want to make a motion to proceed with drafting this ordinance?

Clyde Evans: Yeah I'll make a motion that we go ahead and with all the interest that we discussed with Eric here.

Tom Harper: So to bring it back before us next month?

Carol Schlueter: Or to bring it back next month not to go before the Board of Supervisors?

Clyde Evans: I'm recommending that it go before the Board of Supervisors.

Carol Schlueter: That's what I thought he meant.

Tom Harper: Oh, okay. Is there a second?

Eric Furnas: So basically if the rest of you, if you want me to bring it back for further finalization you would vote no to that motion. Otherwise you can vote for it and it would go before the Board of Supervisors. If you would want to see it in the final workable version first, you would need to vote no on the motion.

Tom Harper: Is there a second?

Carl Kleppe Jr.: I guess I'm fine with that, so I will second it.

Tom Harper: Alright the motion has been made and seconded to recommend to the Board of Supervisors to change the ordinance as we discussed. Is there any other discussion? Hearing none, all those in favor signify by saying Aye (3) Opposed (2). Okay the vote is 3 to 2, the motion passed.

MUSCATINE COUNTY ZONING COMMISSION
By Eric S. Furnas, Planning & Zoning Director