



Rowan County Board of Commissioners

130 West Innes Street • Salisbury, NC 28144
Telephone 704-216-8181 • Fax 704-216-8195

MINUTES OF THE MEETING OF THE ROWAN COUNTY BOARD OF COMMISSIONERS November 15, 2021 – 6:00 PM J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING

Present: Greg Edds, Chairman
Jim Greene, Vice-Chairman
Mike Caskey, Member
Craig Pierce, Member
Judy Klusman, Member

County Manager Aaron Church, Clerk to the Board Carolyn Barger, County Attorney Jay Dees, and Finance Director James Howden were also present.

Chairman Edds convened the meeting at 6:10 p.m.

Chaplain Michael Taylor provided the Invocation.

Chairman Edds led the Pledge of Allegiance.

CONSIDER ADDITIONS TO THE AGENDA

There were no additions to the agenda.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Klusman moved, Commissioner Greene seconded and the vote to approve the agenda passed unanimously.

CONSIDER APPROVAL OF THE MINUTES

Commissioner Klusman moved, Commissioner Greene seconded and the vote to approve the minutes of the November 1, 2021 Commission Meeting passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Klusman moved approval of the Consent Agenda. The motion was seconded by Commissioner Greene and passed unanimously.

The Consent Agenda consisted of the following:

- A. Change Orders No. 6-9 for Dog Adoption Center
- B. 2021 Wellness Incentive
- C. FY21 EMP Grant
- D. Tax Refunds for Approval
- E. Schedule Quasi-judicial Hearing for SUP 02-21 Amendment: Taylor Clay Products, for December 6, 2021
- F. Request of Matching Funds for Salisbury CDC
- G. Proposal For Additional Services for Alternate #4 at West End Plaza
- H. Mid-Carolina Regional Airport (RUQ) Zoning
- I. ARPA Spending Request
- J. ARPA Request and Budget Amendment
- K. Resolution to Award Sidearm to Retiring Deputy Jerry Ewart
- L. Alcoa (AGPI) Transfer of Eagle Point Preserve Area on High Rock Lake
- M. Bi-Weekly Environmental Health Report
- N. Request for Public Hearing for 'Project Excelsior'
- O. SBAR to BOC - Request to Apply for Healthy Beginnings Grant
- P. SBAR to BOC - Request to Apply for Community Health Grant for Dental Services
- Q. Carolina Farm Credit Grant For Cooperative Extension
- R. Memo to BOC - Debt Write-Off for RCHD
- S. Approval of Contract with City of Salisbury for Radio Fees
- T. Approval of Task Order with REI for Engineering Services for Courthouse Roof Replacement
- U. Approval of Lease with Bank of America for ATM
- V. Vaya Health Board Appointments
- W. Conservation Easement Appraisal
- X. Continuation of Opioid Settlement Documents
- Y. NCDEQ Access to Rowan Mill Road Properties

2. REPORTS

A. RCDSS FY 21 ANNUAL REPORT

Commissioner Klusman moved to accept the Rowan County Department of Social Services FY 2021 Annual Report followed by a second from Commissioner Greene. The motion passed unanimously.

3. PUBLIC COMMENT PERIOD

Chairman Edds opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individual came forward:

- Timothy Trogon of Southern Street, Salisbury, spoke to the Board regarding concerns he had with property tax declarations and the 9-1-1 System.

With no one else coming forward, Chairman Edds closed the Public Comment Period.

4. PUBLIC HEARING AND SUMMARY PRESENTATION – EDC ‘PROJECT BISHOP’

Scott Shelton, Vice President of the Economic Development Commission, provided a power point as he presented the economic impact summary for Project Bishop. According to Mr. Shelton, the Company behind Project Bishop (Project) was an online retailer that offered thousands of products to its customers and served them from warehouses and fulfillment centers located throughout the United States. If Rowan County was chosen, the Company would create 1,000 new jobs over the next three (3) years. Approximately 900 of the jobs would be fulfillment-related positions. The remaining jobs would be comprised of supervisory and administrative positions.

The Company planned to invest approximately \$400 million into the Project through construction of a new facility and the installation of major equipment. The majority of the improvements would be completed by early 2024.

Continuing with the power point, Mr. Shelton noted the Company would typically qualify for a Level 3 Grant as he highlighted the County’s Investment Grant Program. Due to the highly competitive nature of the Project and to strengthen the County’s chances to secure the Project, the EDC proposed the Board consider extending the Investment Grant from five (5) years to nine (9) years. The EDC also requested the Board consider expedited local permitting review at no charge to the Company. The fee for the service was normally \$2,500.

Other potential assistance for the Project was a Job Development Investment Grant (JDIG) through the State of North Carolina. The JDIG typically offered a performance-based, discretionary cash grant directly to new and expanding companies to help offset the cost of locating or expanding a facility in North Carolina. Mr. Shelton said the State was also asked to consider applicable grant programs that could assist with infrastructure improvements to the Company’s potential site.

The Town of China Grove would be considering an incentive request for the Project at a called meeting scheduled for November 16, 2021.

In closing, Mr. Shelton reviewed the projected financial impact for the Project, including the creation of a total of 1,000 new full-time jobs, as well as adding \$400 million to the County’s tax base. The Project would also generate approximately \$6.3 million of new net tax revenue for the County over a 10-year period. The Project would lead to the creation of 238 indirect and induced jobs, as well.

Commissioner Greene asked what the average wage would be for the 1,000 jobs. Mr. Shelton responded that in order to receive the JDIG funds from the State, the Company

must pay or exceed the County's average wage, which was currently around \$44,000/annually. The benefits would be in addition to the \$44,000.

Chairman Edds opened the public hearing to receive citizen input regarding Project Bishop. With no one wishing to address the Board, Chairman Edds closed the public hearing.

Commissioner Pierce moved to approve Project Bishop as requested by the EDC. The motion was seconded by Commissioner Klusman and passed unanimously.

5. PUBLIC HEARING: MCCLEAVE ROAD CLOSURE REQUEST

Planning Director Ed Muire presented the McCleave Road (Road) closure request. Mr. Muire said the Board adopted a Road Closure Petition on October 3, 2021 presented by Ken Jezek. Mr. Muire said adoption of the Resolution advised the public of the Board's intent to consider closure of a portion of this private Road. Mr. Muire noted North Carolina General Statute § 153A-241 established the process for the Commissioners to close private roads.

Using a power point, Mr. Muire showed the site in question. Mr. Muire said Mr. Jezek owned parcels 015a/014/01105 /357/260 on Tax Map 130A. The parcels were adjacent to a 25' unopened right-of-way (ROW), which was not maintained by the North Carolina Department of Transportation (NCDOT). The plat was recorded in August of 1950 and the plat recognized the road as Barnhardt Road.

Mr. Muire reported that the request had complied with the statutory requirements in that the Board had adopted the Resolution; the public hearing was advertised for three (3) consecutive weeks by Mr. Jezek; notices were sent to adjoining property owners by Mr. Jezek; signs were posted on the road by Mr. Jezek; and a survey was prepared showing the portions to be closed (by Mr. Jezek's surveyor).

Chairman Edds asked if the applicant would like to make any comments. Mr. Jezek said the road had not been used in 35 years and the roadway was mostly grass. Mr. Jezek said he would like to clean up the acreage into one (1) parcel. Mr. Jezek stated the roadway in question would never be used again under any circumstances.

Chairman Edds opened the public hearing to receive citizen input for the McCleave Road closure request. With no one wishing to address the Board, Chairman Edds closed the public hearing.

Mr. Muire reviewed the next steps/procedural considerations for the Board. The first step was to consider adoption of the Resolution to Accept the ROW.

Commissioner Greene moved to adopt the Resolution. The motion was seconded by Commissioner Pierce and passed unanimously. The Resolution was approved as follows:

RESOLUTION PERTAINING TO THE ACCEPTANCE OF AN OFFER OF DEDICATION FOR PUBLIC USE OF A PORTION OF MCCLEAVE ROAD A/K/A BARNHARDT DRIVE.

WHEREAS, the Board of Commissioners of Rowan County is considering a proposal for the closing of a portion of said street:

BEING THAT PORTION OF MCCLEAVE ROAD A/K/A BARNHARDT DROVE IDENTIFIED ON PLAT BOOK 9995, PAGE 674, ROWAN COUNTY PUBLIC REGISTRY, SITUATED SOUTH OFF MCCLEAVE ROAD (SR#1215).

AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS DESCRIPTION CONTAINED IN THE PETITION SUBMITTED TO CLOSE SAID PORTION OF MCCLEAVE ROAD A/K/A BARNHARDT DROVE, CONTAINING 0.089 ACRES MORE OR LESS.

WHEREAS, the Board of Commissioners of Rowan County has the authority pursuant to NCGS 136-66.3(g) to accept the dedication of the aforementioned right of way

NOW, THEREFORE, be it resolved that the Board of Commissioners accepts the offer of dedication for public use the aforementioned right of way on this 15th day of November, 2021.

CERTIFICATION

I, Carolyn Barger, County Clerk of the County of Rowan, North Carolina, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Board of Commissioner of the County of Rowan, North Carolina in a regular session convened on the 15th day of November, 2021.

WITNESS my hand and corporate seal of the County of Rowan, North Carolina, this the ____ day of _____, 2021.

Mr. Muire said the next step would be to Adopt the Order to Close the ROW. Mr. Muire said before adopting the Order, the Board should consider findings that closing the ROW was not contrary to the public interest or property rights of any individual. The Board should also find that no individual owning property in the vicinity of said portion of McCleave Road (a/k/a Barnhardt Drive) was deprived of reasonable means of ingress or egress to his property by the closing of said portion of McCleave Road (a/k/a Barnhardt Drive).

Chairman Edds moved approval of two (2) findings as follows:

- Closing the ROW was not contrary to the public interest or property rights of any individual.
- No individual owning property in the vicinity of said portion of McCleave Road (a/k/a Barnhardt Drive) was deprived of reasonable means of ingress or egress to his property by the closing of said portion of McCleave Road (a/k/a Barnhardt Drive).

The motion was seconded by Commissioner Pierce and passed unanimously.

Commissioner Klusman moved to adopt the order to close the street. The motion was seconded by Commissioner Pierce and carried unanimously.

6. LEGISLATIVE HEARING AND VESTED RIGHTS REQUEST Z 08-21 OKRA HOLDINGS, LLC

County Attorney Jay Dees reviewed the legislative hearing procedures that were adopted by the Board of Commissioners on November 1, 2021 for Okra Holdings, LLC for Z 08-21. Mr. Dees also highlighted the time allotments for those who had signed up to speak during the hearing.

Planning Director Ed Muire provided a power point as he presented the Staff Report.

APPLICANT: Birdseye Renewable Energy dba Okra Holdings, LLC
PROPERTY OWNERS: James J. Schad; Tall Pines Investments, LLC (Sam Nash); Michael Thomas Barrier and Daniel Gillion Barrier; Julia M. Marshall Revocable Trust; and Carolina Perlite Company, Inc.

REQUEST: Conditional District Rezoning (Map Amendment) from RA to RA(CD) and IND to RA(CD) for development of a utility scale solar energy system and a four (4) year vested right to undertake the project.
 Reference Applicant’s Exhibit 1.

The property information and tax parcels were as follows:

| TAX PARCELS | CURRENT ZONING | OWNER | ACREAGE | IMPROVEMENT |
|-------------------|----------------|------------------|---------|---------------------|
| 540-026 | RA | Schad | 160 | Forestry Management |
| 541-00701 | RA | Barriers | 26.75 | Forestry Management |
| 541-031 | RA | Marshall | 26.75 | Forestry Management |
| 542-046 (portion) | IND | Carolina Perlite | 9.34 | Industrial |
| 543-001 | RA | Tall Pines | 349 | Forestry Management |
| 543-021 | RA | Tall Pines | 2.05 | Vacant |

A total of approximately 573.89 acres was requested for RA (CD) rezoning to allow for development and operation of a utility scale solar energy system; refer to the Okra Solar Composite Site Plan in Exhibit 3. Based on the Site Plan, Staff calculated the solar panel area at approximately 299.1 acres with 42.85 acres of fenced buffer provided along Riles Creek and an intermittent tributary serving as a wildlife corridor and another 22.9 approximate acres in stream buffer and wetland areas.

Using the power point, Mr. Muire showed the properties in question, as well as the surrounding areas. The solar array system area parcels had 259 feet of frontage on US 52 Highway and 148 feet of frontage on Old Beatty Ford Road.

Mr. Muire provided the soil information. The site was located in the Carolina Slate belt and consequently soil types in the area have prevalent rock fragments, wetness and permeability constraints and are generally unsuited for septic tank systems. These soils were moderately suited for agricultural development, e.g. woodlands, crops, pasture and hay. Topography is such that US 52 and Old Beatty Ford Rd formed a ridgeline of

sorts for the site and surface drainage was toward Riles Creek and its tributaries, but there was no designated or regulated special flood hazard areas (i.e. floodplain) associated with these streams. Mr. Muire showed a map that depicted soil type, stream locations, watershed boundary and generalized soil characteristics. The soils were not considered prime agricultural soils as per Attachment 1 of the Staff Report. The information related to the soils was obtained from the Soil Survey of the County completed in 1993.

Mr. Muire highlighted the watershed details, erosion control, and biodiversity plan (Exhibit 15) for the proposed site.

Continuing with the power point, Mr. Muire provided a zoning analysis.

According to the staff report, the site's system area is located in Area One of the East Rowan Land Use Plan (LUP) and within the US 52 Corridor. Alternate substation location #3 (behind Carolina Perlite) brings the application into Area Three, as well, but given its location within the US 52 Corridor, the corridor recommendations are deemed applicable.

Area One contained the lands south of Bringle Ferry Road; east of Union Church and Barger Roads and paralleled the northeast side of US 52. The Plan recognized Area One as the least developed of the three (3) planning areas and was characterized by agricultural uses and low density residential.

Mr. Muire said the Zoning Ordinance was amended to consider utility scale solar facilities as a Conditional District (CD) in the Rural Agricultural (RA) and Commercial, Business, Industrial (CBI) districts. Conditional zoning is intended for proposals that may not be suitable for a general rezoning, but either by voluntary limitations or subject to required development standards that address anticipated impacts upon neighboring properties and the surrounding community, the use(s) may be appropriate. Furthermore, the CD process can allow for additional (not a reduction) standards to address compatibility as a condition of approval if agreed to in writing by the applicant and the County.

The ordinance discourages use of the CD process to acquire "early zoning for tentative uses which may not be undertaken for a long period of time". Although not defined by the ordinance, long time likely refers to more than 2 years from the time of approval as this is the vested period for initiating the project unless a longer duration is granted by the Commission. In this case, the applicant has requested its application be considered for granting of a four (4) year vested right. Per Section 21-11(c)5(a), the Commission may authorize up to a five (5) year vesting, "if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations as determined by the Board in accordance with this subsection." Refer

to last paragraph on page 4 of applicant's Exhibit 2 for its rationale for requesting a four (4) year vested right.

Mr. Muire reviewed the compatibility of uses.

NCDOT has issued a commercial driveway permit (Exhibit 5) for access onto US 52 and Old Beatty Ford Rd as depicted on the site plan. Aside from the staging and construction phase of the project, traffic generated by the site should be minimal. Average Annual Daily Traffic (AADT) information from NCDOT indicates US 52 has 7300 vehicles per day (2018 data) north of the site near its intersection with High Rock Rd and 6800 vehicles per day (2019 data) at a location south on US 52 in Stanly County. 2018 data for the segment Old Beatty Ford Rd beginning at Old US 80 is 1900 AADT and a location near Stokes Ferry Rd is 650 AADT.

US 52 Highway is identified as a boulevard in the Cabarrus-Rowan MPO's Comprehensive Transportation Plan (CTP) with a design capacity of 14,600 AADT. Although 50% under capacity, the CTP recommends improvements for US 52 that increase the current two (2) lane, sixty (60) foot right-of-way to a four (4) lane road and median in a one hundred ten (110) feet right-of-way. Funding shortfalls have continually delayed construction of this project, but right-of-way purchase has been tentatively scheduled for 2028.

The 4.1-mile segment of Old Beatty Ford Road from US 52 to Stokes Ferry Rd is identified as a minor thoroughfare with a sixty (60) foot right-of-way and design capacity of 13,100 AADT. No future changes are proposed for this road segment in the CTP.

The facility is proposing an interconnect with Duke Energy's transmission lines and has provided documentation that Duke is aware of their intent. As indicated by its site plan, a second point of interconnect may change between alternate substation #2 (on site) and alternate substation location #3 behind Carolina Perlite. The facility should require no provision of water or septic, unless the proposed modular storage trailer is either required by code or desire of the applicant.

Mr. Muire discussed the Specific Conditional District Standards per Section 21-64(a) of the Zoning Ordinance. The Site Plan depicts the system area at the required one hundred (100) foot setback from road rights-of-way and adjoining property lines. Likewise, all other proposed structures that are not solar collectors are located at least three hundred (300) feet from any residence, church or school on adjoining properties.

The site is not located within the conical or horizontal surfaces of the Mid Carolina Regional Airport, but is located just over one thousand (1,000) feet from the runway at Gold Hill Air Park. However, the zoning ordinance has no separation standards between utility scale solar systems and private airfields.

Although this specific standard for Mid Carolina is associated with glare impacts, the applicant has provided a glare analysis (Exhibit 8) not only for the Gold Hill Air Park, but also accounts for the Stanly County Airport. The general finding from the applicant's report suggest its facility will not create glare impacts for pilots landing and leaving these runways.

The applicant has proposed using the Alternative Buffers or Screening and Existing Vegetation provisions authorized per 21-64(2)3(ii). Along the southern and eastern site boundary, where residential uses are located, the screening will consist of an eighty (80) foot buffer; fifty (50) feet of which will be undisturbed existing vegetation and thirty (30) feet of managed regrowth; refer to Exhibit 14. Fencing of the system area will consist of wildlife permeable fencing, aka "Deer Buster" as recommended by NC Wildlife Resources Commission. Refer to Applicant's Exhibit 10. Along the northern site boundary, screening will consist of eighty (80) feet of existing vegetation and along the western site boundary adjoining the Statesville Brick property no screening will be provided, just the one hundred (100) foot system area setback will be observed with fencing in place.

Mr. Muire showed a brief drone video of the site. Assistant Planning Director Shane Stewart provided the Board with a handout that was a site map of the drone footage being shown.

Commissioner Caskey pointed out the location of another solar farm that was visible in the drone footage.

Continuing with the staff report, Mr. Muire discussed the LUP recommendations. It was noted in the recommendations that:

- Areas currently served or having the potential to be served by water or sewer infrastructure are not preferred locations. The site is not currently served by municipal water or sewer infrastructure but the North Stanly-Pfeiffer Water District (Water District) does provide limited service in Rowan County. The Water District currently serves the Gold Hill Airpark (south of the site) and some industrial users on the west side of US 52. According to Water District staff, the system does have capacity to serve other Rowan users, but currently there are no plans to extend service. Stanly County Utilities Department indicated sewer service is located and terminates in an area behind Pfeiffer University but there are no plans for extension. In the event water service is extended to this site, the benefit is negated as the soils are poorly suited for septic systems, i.e. water without sewer is not seen as an advantage for the majority of potential developments for the site.
- Existing Industrial (IND) and Economic Development (ED) zoning districts, or sites/properties listed with the Rowan County Economic Development Commission (EDC), are not preferred locations. With exception of a portion of

the Carolina Perlite property, none of these tracts are located in an IND or ED district, nor listed with the EDC for economic development.

- Encouraged in areas with low to moderate residential population densities in combination with buffers and screening. Census information for 2000 and 2010 found on pages 9 and 10 of the East LUP suggest population densities proximate to the site are in the middle to lower density categories of those in the planning area.
- Locations or areas of a site with topography such that screening/visual separation cannot be achieved from adjoining properties or roadways within a 3-year timeframe should be avoided. As noted herein, the site and its interior tend to sit lower than the adjoining ridgeline formed by US 52 and Old Beatty Ford Road. The applicant's proposed use of existing vegetation and treeline within its buffer areas, claims to achieve this standard in locations depicted on the site plan. Page 1 of the alternative Buffer Compliance packet (Exhibit 14) depicts the buffer transect which is supplemented with actual site photos of existing vegetation at areas identified on page 2 of Exhibit 14. As an alternative to existing vegetation and managed regrowth areas, the applicant has proposed installation of Type B screening along Benton tract consisting of a mixture of evergreen and deciduous species between four (4) and six (6) feet tall at time of planting. The applicant also proposed to modify the site access from US 52 such that the system area would not be visible.
- Site that will occupy prime soils or displace active farming operations are not preferred, but if approved should incorporate native plants or grasses as groundcover and include pollinator friendly vegetation. As noted, the soils at this site are not considered "prime", but 98% of the site acreage is currently in the agricultural deferral program for timber production and eventual harvesting. Management plans for pine forests attempt to have a rotation of timber stock sizes with intermediate thinning at 15-20 years and final harvest at 40 years and then replanting.
- Panel locations within the Special Flood Hazard Areas (SFHA) or placement of fill within these areas of a site is discouraged. No SFHA are associated with this site and proposed panel locations are depicted outside stream buffer areas.
- Subject to potential utility extensions, sites having identified poor soils or building / septic constraints are generally encouraged for selection. Refer to first bullet within this section of the Staff Report.
- Sites within the viewshed of a public park, National Register listed historic property or Rowan County landmark are not preferred. Applicant's Exhibit 9 contains an opinion from the North Carolina State Historic Preservation Office (SHPO) that indicates no historic resources would be affected by the site. Likewise, Staff is not aware of a park within the viewshed of the site or a County identified landmark that would be impacted.
- Utility scale solar energy systems locating within one (1) mile of another utility scale solar energy system is discouraged. The closest operating utility scale system located in Rowan County is over two (2) miles northwest of the site on St.

Peters Church Road. A five hundred (500) acre solar facility located in Stanly County and bordering both Cabarrus and Rowan Counties was approved in 2018 and according to their Staff construction of the facility is imminent. Although this facility appears to be within the one-mile threshold, the County's adoption of its zoning ordinance and land use plans apply to lands in Rowan County not located within a zoning jurisdiction of a municipality. While not stated, the assumption would be the same "municipal exclusion" would also apply to adjacent counties.

- A maximum system acreage of 50 acres is preferred, but may be increased based on the site's ability to meet all other recommendations contained herein. This site is more than ten (10) times the recommended acreage and the Planning Board will need to determine whether it satisfies all other ordinance recommendations.
- Site locations along the East NC 152 and US 52 highway corridors are not preferred. Approximately thirty-one (31) acres on the east side of US 52 and 9.34 acres on the west side of US 52 are located within the US 52 Highway corridor, which is seven (7) percent of the total CD request.

Mr. Muire highlighted the staff recommendations as follows:

1. Increase riparian buffer to one hundred (100) feet from all perennial streams located in the Tuckertown Watershed (WS-IV) area and fifty (50) feet for streams outside the WS-IV area.
2. Provide consistent setback of fifty (50) feet around identified wetland areas.
3. Prior to commencing grading activity or construction, have an on-site survey conducted by a biologist for any federal or state-listed animal, plant or aquatic species to ensure there are no impacts to rare, threatened or endangered species. Provide copies of this study to Staff and applicable state and federal agencies for review and comment.
4. Re-seed all disturbed areas within the system area with pollinator friendly seed mixtures.
5. Compliance with disconnect length and associated recommendations contained in the NC Stormwater Design Manual for Solar Facilities to be deemed pervious.

Mr. Muire discussed the Board's deliberation process.

Commissioner Caskey questioned the size of the largest solar facility approved in Rowan County thus far, prior to adoption of the new zoning text regarding solar farms. Mr. Stewart responded the largest was 110 acres.

Commissioner Caskey referred to comments that nothing would grow on the proposed property but he pointed out that trees were growing there. Commissioner Greene added that the types of growth depended on the land and water drainage.

Brian Bednar, Chief Executive Officer of Birdseye Renewable Energy (Birdseye) provided the history as to how the proposed site had been selected. Mr. Bednar said he was proud of the efforts that had been taken to improve the approach and plan for the project.

Landon Abernethy, Director of Development for Birdseye, provided a power point as he discussed the application and how large scale solar could fit into the County. Mr. Abernethy said Birdseye had easily complied with the new ordinance requirements for the proposed project.

Using the power point, Mr. Abernethy reviewed an overlay of the County's transmission infrastructure. Mr. Bednar said Birdseye wanted to make sure project was developed and screened appropriately as a benign use through screening and smart design.

Mr. Abernethy briefly highlighted where guidelines had been exceeded to account for public and county concerns. Mr. Abernethy said Birdseye had met with two (2) different individuals in an effort to address the safety concerns that had been brought to the Company's attention by the Gold Hill Air Park (Air Park) and the Volunteer Fire Department (VFD). Mr. Abernethy continued by saying there was an affidavit in the agenda packet from Patrick Lofvenholm, an independent flight instructor, who would address the Board and who had determined the concerns for the Air Park did not have merit from a flight instructor's point of view. Mr. Abernethy said an engineer, Chris Sandifer, was also present to address environmental concerns. With respect to fire and rescue response, Mr. Abernethy reported Birdseye had worked with North Carolina State University and the Rowan County Fire Marshal and Gold Hill VFD to provide in-person training for all first responders with information as to how to respond effectively to an emergency at the proposed site, both inside and outside of the fence line.

Using the power point, Mr. Abernethy showed the proposed site and proposed vegetative buffer along US Hwy 52. Mr. Abernethy also discussed the location of the substation.

Mr. Abernethy reviewed the Biodiversity Plan and discussed the goals for the stewardship of the wetland and maintenance of existing native buffers. According to Mr. Abernethy less than 300 acres would actually be under solar with the remaining acres in vegetative preservation.

Lastly, Mr. Abernethy highlighted the tax benefits to the County over the 40-year life of the proposed project.

Patrick Lofvenholm of 149 Yager Road in Mooresville, North Carolina, said he had been a pilot and flight instructor for sixteen (16) years and he also operated a flight school. Mr. Lofvenholm said he had been asked to give a pilot's perspective regarding the concerns of those from the Gold Hill Air Park. Mr. Lofvenholm used a power point as he discussed the safety arguments for the rezoning proposal.

Chris Sannifer, of 3118 Marine Road in Spring Hope, North Carolina, said he was a registered Professional Engineer in North Carolina. Mr. Sannifer said he also served on Nash County's Planning Board. Mr. Sannifer reported the materials used for the solar panels were valuable but non-toxic and could be placed in a landfill, if required. Mr. Sannifer talked about the decommissioning plan and stated there had been no environmental studies to show any detriment to the environment.

Sam Nash came forward to address the Board. Mr. Nash said he had been a resident of Rowan County all his life. Mr. Nash said his family had roots in the County since the 1800's and they had always tried to be good stewards of the land and reasonable neighbors. Mr. Nash said his property did not perk and the family had always been challenged with what could be done with the property. Mr. Nash said growing trees for harvesting and leasing the land for hunting had helped to pay the taxes. Mr. Nash continued by saying approximately three (3) years ago the family had been presented with a proposal for a large solar project, which would allow the family to keep the property for generations. Mr. Nash felt property owners had the right to derive income from their property and he encouraged the Board to support the request.

Commissioner Klusman asked Mr. Nash what he had been able to grow on the property besides pine trees. Mr. Nash said Loblolly pines were the only thing he had been able to grow. Commissioner Klusman said she had been out to the property and she asked if Mr. Nash would be able to graze cattle there. Mr. Nash said the land did not absorb water and he would have to dig a lot of wells to grow healthy grass for the cattle.

John Ritchie of 310 Aviation Lane, Gold Hill, North Carolina, came forward as spokesperson for concerned Gold Hill citizens opposed to the large-scale solar project. Using a power point, Mr. Ritchie showed the proposed site and noted another 700-acre Misenheimer solar project that was slated to begin construction soon.

Mr. Ritchie said the Birdseye project was unusually hazardous to place next door to an airport due to the safety hazards it would cause for the Air Park.

Mr. Ritchie said the project would dominate the Gold Hill community and he pointed out the Rowan Solar Energy Systems Land Use Plan Recommendations included the following language, "to ensure utility scale systems are not a dominant land use". Using the power point, Mr. Ritchie pointed out the project was as large as the City of Salisbury.

Mr. Ritchie continued by sharing the Land Use Recommendations via the power point. Mr. Ritchie said the project should not be allowed because of its inability to meet all of the recommendations as written.

Mr. Ritchie shared the possible aviation safety hazards the proposed project would create. Mr. Ritchie referred to the Mid Carolina Regional Airport and notes its specific safety exclusion from solar development. Mr. Ritchie questioned why the Gold Hill Air Park should not have the same protections.

Mr. Ritchie discussed the tax revenue comparison over the next 40 years and stated the Air Park would generate approximately \$5-\$8 million in tax revenue at modest growth rates. However; during the September 27, 2021 the Planning Board meeting minutes indicated the proposed project would only generate \$2.5 million. Mr. Ritchie said if the project caused the Air Park's demise, Rowan could suffer a net loss of \$2.5-\$5.5 million in tax revenue going forward.

Continuing with the power point, Mr. Ritchie discussed Gold Hill tourism, adverse wildlife effects of adjacent twin mega-systems, and neighborhood sustainability.

In conclusion, Mr. Ritchie said the proposed re-zoning application for a utility-scale industrial solar project in Gold Hill should be denied for a multitude of reasons, including:

- Fails to comply with at least five (5) of Rowan County's Solar Energy System Land Use Recommendations
- May create multiple aviation safety hazards for Gold Hill Airpark/Airport, including for emergency Life Flight/first responder operations
- May cause a tax revenue loss of \$2.5 to \$5.5 million dollars for Rowan County
- May have a negative impact on decades long creation of Historic Gold Hill Village and associated Gold Hill tourism
- May create vehicle collision hazards due to deer funneling between solar mega sites
- May cause self-supporting Gold Hill Airpark to be unsustainable, disabling essential services required for existing homes such as wastewater treatment and road maintenance

The next speaker was Ken Wiseman of 300 Aviation Lane, Gold Hill. Mr. Wiseman said he was a 45-year professional pilot and currently serving as the chief pilot for a Fortune 100 company in Charlotte, North Carolina. Mr. Wisemen said he held aviation's top credentials.

Mr. Wisemen praised the Board for its wisdom to develop and approve "an incredible ordinance" to protect the Mid-Carolina Regional Airport. Mr. Wisemen said the Board had determined that airports and solar projects do not co-exist in that the Board had restricted industrial solar from being too close to the County's Airport. Mr. Wisemen

pointed that that while Gold Hill might not be an FAA Airport, its users were FAA certified pilots who flew FAA certified planes in FAA airspace with charts and rules provided by the FAA. Mr. Wisemen said the difference between the two (2) airports was the Gold Hill Air Park did not require tax resources to pay for itself. Mr. Wisemen said life flights, law enforcement, the military and EMS can also use the Air Park.

Mr. Wisemen continued by discussing the safe zone the ordinance provided around the County's Airport. Mr. Wisemen did suggest to change the ordinance wording from, "not create bird strike (change to wildlife strike) hazards."

Using the power point, Mr. Wisemen discussed the safety buffer around the Air Park and how the overwhelming size of the proposed project would dominate the Gold Hill community.

Dr. Lance Riley, PhD of Aquatic Sciences and Environmental Engineering, 11311 Kluttz Road, Gold Hill, described himself as a leading source at the meeting on science and debate. Dr. Riley referred to earlier comments that had been made about the proposed site not growing anything but trees and the land being worthless. Dr. Riley asked who knew that 300 acres had previously dedicated as North Carolina Natural Heritage site until the land was timbered and completely decimated. Dr. Riley noted the land was still listed in 2021 as a Natural Heritage site and the jewel of Rowan County. Dr. Riley mentioned reptiles, amphibians, flowers, etc. that were endangered and protected that were found in the area. Dr. Riley said the request was not the environmentally right thing to do.

Cindy Wisemen of 300 Aviation Lane, Gold Hill said she would soon be retiring from a 39-year career in anesthesia in California. Ms. Wisemen said she and her husband were the newest members to the Air Park community and they had bought their home intentionally seeking a rural country setting. Ms. Wisemen said she would have never considered buying a home next to the proposed project. Ms. Wisemen shared that two (2) inquiries into the community had walked away when they learned of the threat of the solar project. Ms. Wisemen asked the Board to vote no on the request.

Darius Hedrick of 825 St. Stephens Church Road, Gold Hill, reported that 35 years ago the restoration efforts of Gold Hill had begun. Mr. Hedrick said he had served on the Rowan County Historic Properties Commission and that Rowan County was blessed with lots of historic sites and beautiful ground. Mr. Hedrick said as he traveled across the County, he found none of the sites to be more important than what was taking place in the restoration of Gold Hill. Mr. Hedrick asked the Board to vote no to the solar project.

Dr. John Featherstone of 361 Rowan Cabarrus Road in Gold Hill said he was born in Gold Hill and was a graduate of North Carolina State University with a Veterinarian degree. Dr. Featherstone provided a power point as he shared how his family had

hunted, farmed and fished the land for years. Dr. Featherstone talked about how deeply his family would be directly impacted by the proposed solar project and the Stanly County solar project.

Pete Hoffman, a local attorney, said he was present to give advice about how the law worked in this matter. Mr. Hoffman said the other speakers had given reasons about why they did not want the project to be approved. Mr. Hoffman offered advice on how to deny the request in a manner that would survive court system.

Chairman Edds called for a recess at 9:00 p.m.

Chairman Edds reconvened the meeting at 9:05 p.m.

Connie Byrne, a Rowan County resident from the southern portion of the County, shared what she had learned and observed from those in support of, as well as opposed to the proposed solar project.

County Attorney Jay Dees informed the Board there was a caller online that wished to speak on the matter. Mr. Dees felt the Board should receive the comments.

The caller, Lucy Yelton, said she had grown up in Gold Hill and she expressed concern with the environmental impacts of the solar farm. In closing, Ms. Yelton asked the Board to disapprove the solar project.

Mr. Dees said the applicant would now have their allotted time for rebuttal.

Mr. Abernethy first addressed Ms. Yelton's environmental concerns and said there were no turbines proposed or cooling water at the site. With regards to Ms. Yelton's concerns with infiltration into groundwater, Mr. Abernethy said there were MSDS sheets that came with the modules and there were no toxic chemicals that prevented the modules from being disposed of in the landfill.

Julia Marshall of 8628 Middleton Pt. Lane, Edisto Is., South Carolina, shared that her family's land had been in the family since her grandfather had purchased it back between 1940-1950. Ms. Marshall said the property had limited agricultural uses for harvesting timber and hunting leases. Ms. Marshall noted the residential use was limited by the land's inability to perk.

Nick Chirico of Gold Hill said he and his sister were co-owners of Carolina Perlite Company. Mr. Chirico said they had been approached by Birdseye several years ago about the possibility of the solar field. Mr. Chirico said the project would have to interface with the power line that ran in the back of Carolina Perlite's property. Mr. Chirico said they were amenable to the project in order to be able to maximize the value

of the land. Mr. Chirico did not feel the project would interrupt his Company's operations and he noted that the power has to come from somewhere.

Susanne Todd, an attorney from Charlotte for the applicant, stated the site plan met all the County's ordinance requirements. Ms. Todd referred to safety issues that had been mentioned - both aviation and otherwise - and she noted that Birdseye was offering to provide training to all VFD in the County. Ms. Todd said new land use recommendations were factored into the decision for the chosen site. Ms. Todd felt if Rowan County was going to add a large-scale solar farm, the proposed site was the place to put it. Ms. Todd said an airpark resident told her they had the right to fly their plane over the proposed site at any time, which she agreed was true. However; Ms. Todd questioned whether the airport residents had the right to tell the other property owners what to do with their land. Ms. Todd said the County had approved amendments to its Zoning Ordinance that were intended to minimize the impacts of solar projects and she continued by highlighting those changes and discussing how Birdseye had exceeded the ordinance requirements in its proposal. Ms. Todd shared her opinion on the one-mile separation difference between solar farms. Ms. Todd felt that property owner Sam Nash was not being treated equally if Rowan County considered what Stanly County was doing (another large-scale solar farm). Ms. Todd said part of the Airpark had access to water but the rest of the area did not. Ms. Todd said the land use recommendations were guidelines. Ms. Todd said the application was consistent and also reasonable. Ms. Todd asked how the project could be detrimental to the community if citizens could not hear, see or smell the project. Ms. Todd continued by mentioning the economic benefits and taxes to be received over the life of the project. Ms. Todd said Birdseye had requested the four (4) years vested right due to being dependent on the start of construction/Duke Energy. In closing, Ms. Todd said none of the property owners that were adjacent to the site had expressed opposition to the application and she sought the Board's approval of the request.

James Schad of 124 Todd Drive, Mt. Gilead, NC sought the Board's support for the request. Mr. Schad said he believed in property rights and that he would like to be able to use the property for its highest and best use. Mr. Schad said he had his property logged about three (3) years ago and that the property would never perk. Mr. Schad continued by discussing the uses allowed in the zoning district for the area in question.

In response to an inquiry from Commissioner Klusman, Mr. Schad said he could grow trees on the property but it had not brought in the revenue he had hoped for.

At this point, Mr. Dees said the Chairman could close the public hearing unless there were questions of those who had spoken.

Commissioner Caskey referred to the safety aspect and flyer in the agenda packet for proposed fire training. Mr. Abernethy said he had talked to the Gold Hill VFD Chief and the Chief had made it clear he had concerns about his firefighters knowing how to

respond at the solar site if there was an emergency. Mr. Abernethy said the Chief was under the impression there were no available curriculums. Mr. Abernethy said Birdseye had reached out to North Carolina State University and there were individualized training programs that had been developed. Mr. Abernethy said he had gotten back in touch with the Fire Marshal and VFD Chief to let them know that Birdseye was committed to provide in-person training for all first responders and anyone in the region that might respond to an emergency inside the solar farm fence line.

In response to Commissioner Caskey, Mr. Abernethy said there was an online training curriculum; however, Birdseye planned to hold in-person training on site. Mr. Abernethy said Birdseye reached out to the Fire Marshal about the training and she had suggested waiting until the decision on the project had been made by the Commissioners. According to Mr. Abernethy, Birdseye had never been asked to sponsor an emergency response training.

Commissioner Caskey raised questions regarding the tax value of the solar farm once it was built. Commissioner Caskey noted there was a state maximum tax rate the County could charge. Mr. Abernethy said the property would come out of the agricultural deferment program and then taxed at its valuation as a profit-making property. Mr. Abernethy said the business personal tax had an 80% tax abatement at the state level property tax and an accelerated appreciation schedule. Mr. Abernethy said the calculations were included in the information in the hearing binder.

Commissioner Caskey referred to an earlier public hearing held in the current meeting for Project Bishop. In comparison, the hearing was to consider an economic development tax incentive for an investment of approximately \$400 million and the creation of 1,000 new jobs. Commissioner Caskey asked what the investment would be by the solar company and Mr. Abernethy said the investment was on the border of \$90-\$95 million and the calculations were set by the State.

With no further public input, Chairman Edds closed the public hearing.

Commissioner Caskey said dealing with property rights was always tough. Commissioner Caskey said the Board had approved several solar farms since he had been on the Board; however, none had been of this magnitude. Commissioner Caskey said he was glad the County had updated the ordinance regarding solar farms in order to help the Board make the right decisions for its citizens. Commissioner Caskey said the Board had agreed fifty (50) acres was the preferred size and the maximum acreage had been of importance to him when changing the ordinance. Commissioner Caskey was not in favor of supporting a solar farm that would be located within one (1) mile of another (Stanly County). Considering the request from a practical standpoint, Commissioner Caskey, said he would not want to live between two (2) giant solar farms. Commissioner Caskey discussed the safety aspect and expressed concern with online courses, which he felt were not the greatest. Commissioner Caskey said he understood

Birdseye also wanted to provide some hands-on training. Commissioner Caskey, in closing, said the concerns that kept him from supporting the request was being located between two (2) large solar farms and he did not want Rowan County to get to the point of having larger and larger solar farms.

Commissioner Klusman said she was a retired dairy farmer on a farm that started in 1853 and she was also the mother of a pilot. Commissioner Klusman described farmers as conservationists. Commissioner Klusman said there were environmental rules for farmers to follow and the same rules applied for a tree farm. Commissioner Klusman said the Board had cleaned up its solar ordinance; however, she felt the Board should remember what the spirit and intent of the ordinance was. Commissioner Klusman said the word "preferred" had been used because the Board wanted to keep their ability to allow our citizens to do what made sense on their farms and their property where land won't do very much. Commissioner Klusman said she had visited the site and understood the soil there would not sustain a family. Commissioner Klusman said she knew how much work people had put into restoring historic Gold Hill to the place it is now. Commissioner Klusman said the spirit and intent of the ordinance allowed the Commissioners to be able to have larger solar farms. Commissioner Klusman reiterated that citizens had the right to use their property for the highest and best use. Commissioner Klusman said if the Board was going to choose a large site for a solar farm, the proposed location should be the site. Commissioner Klusman encouraged the Commissioners to approve the project.

Commissioner Greene said the Board was not required to approve any solar farm that did not meet the regulations. Commissioner Greene was of the opinion the proposed solar farm did not meet the regulations because of the distance from another solar project. Commissioner Greene disagreed with Attorney Todd who had stated the Stanly County solar farm did not "count". Commissioner Greene said the solar farm had access to water less than 2,000 feet away and therefore, there was the chance for future development. Commissioner Greene felt the proposed 500-acre solar farm would overshadow the community and change the nature of Gold Hill and it was not consistent or harmonious with the rest of the community. For the reasons, he had outlined, Commissioner Greene said he could not vote for the project.

Chairman Edds felt that over the years land in Rowan County had been cheap and for some time, the County had been desperate for development. Chairman Edds said when demand is not high then the prices are low and he felt the County became an easy target for some projects because the land was cheap. Chairman Edds said this was no longer the case and Rowan County land was valuable. Chairman Edds said when talking to the Economic Development Director (EDC), about projects coming Rowan County's way, one could see the County would be choosy about what it would accept.

Chairman Edds expressed appreciation for Commissioner Caskey's inquiry and comments about the solar farm's total investment of \$95 million as compared to an EDC incentive approved (earlier in the same meeting) for a \$400 million project that would create 1,000 jobs. Chairman Edds gave examples of other EDC projects/job creation. Chairman Edds said as the Board weighed the projects and considered incentives, the Board considered the significant investment in order to benefit the community with jobs with the hope for people to improve their lives through those jobs from the private sector. Chairman Edds noted Birdseye had taken steps to address the concerns from the public and he appreciated how Birdseye had tried to fit the project. Chairman Edds said the solar farm would have a \$95 million investment but with an 80% give back from the County and few jobs created, if any.

Chairman Edds shared several observations and noted he was not a real estate appraiser. Chairman Edds also mentioned he had achieved 37 hours of instructional time in an airplane and had been 3 hours away from obtaining his private pilot's license. Chairman Edds referred to Ms. Wiseman's comments and agreed that if he were considering moving from California to a pristine part of the country with an airpark there was no way he would choose the location if he had to look at 500 acres of solar.

Chairman Edds stated water access was close. Chairman Edds pointed out the new interchange built in southern Rowan County Water was put in with water and sewer approximately 6 to 7 miles away (the City of Kannapolis had agreed to install the water/sewer lines). In comparison, Chairman Edds said the proposed solar farm was only 1700 feet from water. Chairman Edds said the land would have tremendous value at some point.

Chairman Edds said historic Gold Hill had other assets, most of which was its people and they had worked hard to rebuild, reimagine and re-energize their community.

Chairman Edds said comments had been made that the Gold Hill Air Park was not necessarily an FAA airport. Chairman Edds said the comments had raised a question for him in that if the Board had put restrictions around the Mid-Carolina Regional Airport but not Gold Hill Air Park, was the County saying those pilots in Gold Hill had less value than those at the County's airport.

Chairman Edds disagreed with the issue of the Hwy 52 corridor and noted the ordinance did not say "on the road" or just mean road frontage. Chairman Edds pointed out that a housing subdivision nor an industry could be built only on the road frontage. Chairman Edds felt the spirit of the Hwy 52 corridor meant the County did not want to interrupt the corridor because of its opportunity and possibilities.

Chairman Edds believed Gold Hill would end up carrying an extremely large burden for the County because of the acreage that would be placed in solar. Chairman Edds said there would be a consolidation of 1200 acres of solar in the Gold Hill area. Chairman

Edds said the Board was committed to private property rights but there was an asterisk because those rights also extended to the neighbors.

In closing, Chairman Edds said he could not support the request.

Following a brief discussion with Mr. Muire and Mr. Dees regarding procedural deliberations, Chairman Edds moved the following: Z 08-21 is not consistent with the Eastern Rowan Land Use Plan and is not reasonable based on following:

1. There is another solar energy system less than one (1) mile from the proposed site of this utility scale solar energy system.
2. The solar plan recommendation set fifty (50) acres as the maximum area for a solar facility, but that could be exceeded if all preferences were met, but in this case, they were not met.
3. The potentially high detrimental impact on the airport-based community that lies adjacent to the proposed site is not preferred.
4. Violates the solar ordinance by locating along the Hwy 52 corridor.
5. The site does have the potential to be served by water and/or sewer infrastructure.
6. The project is partially located in an existing industrial entrance.

The motion was seconded by Commissioner Pierce and passed 4-1 with Commissioner Klusman dissenting.

Commissioner Pierce moved to deny Z 08-21. The motion was seconded by Commissioner Caskey and passed 4-1 with Commissioner Klusman dissenting.

Chairman Edds called for a recess at 10:34 p.m.

Chairman Edds reconvened the meeting at 10:48 p.m.

7. PUBLIC HEARING FOR TA 02-21: TOM TURPIN AND PLANNING STAFF

Assistant Planning Director Shane Stewart presented the Staff report for Text Amendment (TA) 02-21. Mr. Stewart said the TA request was received from Tom Turpin to amend Section 21-34(c)(2)(a) of the Zoning Ordinance pertaining to allowed uses in the 85-ED-2 Zoning District. The Zoning Ordinance uses the Standard Industrial Classification (SIC) Manual as a means of identifying and categorizing uses by trade sector and organizing into a list of permitted and special uses allowed by zoning district. Currently, Motor freight transportation and warehousing (SIC 42), Wholesale trade – durable goods (SIC 50), and Wholesale trade – non-durable goods (SIC 51) are subject to the issuance of a special use permit. This request would shift these three (3) groups to permitted by right in the 85-ED-2 zoning district.

Mr. Stewart noted Planning Staff included some minor ordinance amendments to consider along with the requested change.

Using a power point, Mr. Stewart reviewed the request and highlighted the proposed text amendments.

Procedurally, Mr. Stewart said the Board must develop a Statement of Consistency regarding the proposed zoning ordinance amendment describing whether its action was consistent with any adopted comprehensive plans.

Mr. Stewart reported the Planning Board met on October 25, 2021 and no one provided comments at the courtesy hearing held. The Planning Board voted 6-0 to recommend approval of the request with no changes based on the following Statement of Consistency: "TA 02-21 is consistent with the adopted land use plans and reasonable and appropriate based on the following: the request is beneficial to both business and commerce."

Chairman Edds opened the public hearing to receive public comment regarding TZ 02-21. With no one coming forward to address the Board, Chairman Edds closed the public hearing.

Chairman Edds moved approval of the following Statement of Consistency: "TA 02-21 is consistent with the adopted land use plans and reasonable and appropriate based on the following: the request is beneficial to both business and commerce." The motion was seconded by Commissioner Pierce and passed unanimously.

Commissioner Pierce moved, Commissioner Greene seconded and the vote to approve TA 02-21 carried unanimously.

The text amendments were approved as follows. Existing text proposed for deletion appear **highlighted with strikethroughs** while new text appear as **bold red text**.

Chapter 14: NOISE

Sec. 14-12. - Permits to exceed.

(d) *Permit fee.* All applications for a permit to exceed shall be accompanied by a ~~twenty five dollar (\$25.00)~~ processing fee **as established by the board of commissioners**. This fee shall be nonrefundable except in cases of administrative error.

Chapter 21: ZONING ORDINANCE

Article III. Site Plans, Special Requirements, Rural Home Occupations, Special Use Permits, Conditional Zoning Districts, and Special Requirements in the NB district.

Sec. 21-51. Purpose.

Sec. 21-52. Site plan required.

Sec. 21-53. Permitted uses with special requirements **and rural home occupations (RHOs)**.

Sec. 21-54. ~~Maximum building size and setback requirements for certain uses listed as SR in the Rural Agricultural District.~~

Reserved

Sec. 21-55. General criteria for uses listed as SR in article III.

Sec. 21-56. Specific criteria for uses listed as SR in section 21-113.

Sec. 21-57. Review and approval of special uses.

Sec. 21-58. Review procedures.

Sec. 21-59. Evaluation criteria.

Sec. 21-60. Special use requirements for specific uses.

Sec. 21-61. Conditional zoning districts.

Sec. 21-62. Effect of approval for conditional zoning districts.

Sec. 21-63. Application re-submittal for special use permits and conditional zoning districts.
 Sec. 21-64. Conditional District Standards for Specific Uses.
 Sec. 21-65. General criteria for uses listed as SR in the NB District in section 21-113.
 Secs. 21-66--21-80. Reserved.
 Article XII. Administration and Hearing Requirements
 Sec. 21-311. Board of commissioners.
 Sec. 21-312. Planning board.
 Sec. 21-313. Board of adjustment (BOA).
 Sec. 21-314. Planning department.
 Sec. 21-315. Hearing procedures for zoning map and text amendments, high density and special use permits, and variances, and appeals interpretations.
 Sec. 21-316. Exceptions for mailed notice requirements for large-scale rezoning.
 Sec. 21-317. High Density development permit application.
 Secs. 21-318--21-330. Reserved
 Article XIII. Appeals, and Variances, and Interpretations
 Sec. 21-331. Appeals.
 Sec. 21-332. Variances.
 Sec. 21-333. Recordation of variances and conditions.
 Sec. 21-334. Interpretations Reserved.
 Sec. 21-335. Variance from watershed overlay.
 Sec. 21-336. Judicial review of BOA decisions.
 Secs. 21-337--21-360. Reserved.

Sec. 21-11. Permit choice, vested rights, and site-specific vesting plans.

Pursuant to G.S. 143-755, 160D-108, and 160D-108.1, provisions to secure a permit choice, vested right, or site-specific vesting plan shall be as follows:

(c) *Site-specific vesting plans.*

(1) Site-specific vesting plan. In accordance with G.S. 160D-108.1, a site-specific vesting plan means a plan submitted pursuant to this subsection describing with reasonable certainty the type and intensity of use for a specific parcel(s). The plan may be any one or more of the following plans or approvals: a planned development subdivision, a subdivision plat, a site plan, a special use permit, or a conditional zoning district in accordance with section 21-281(2).

Sec. 21-34. Economic development districts established for I-85.

(c) The district are labeled as 85-ED 1 through 4. "85" represents the relationship to I-85. "ED" represents the economic development designation for the sites.

(2) *85-ED-2.* In areas where existing conditions such as surrounding development, access etc. may make the area less marketable for uses listed exclusively in the 85-ED-1 district then the 85-ED-2 district may be appropriate. The primary additions to this district are distribution and wholesaling operations.

a. Certain industries shall be allowed as permitted uses with standards provided to protect adjacent neighborhoods. Other heavy industries and distribution and wholesale operations may be allowed as special uses. If part of a larger master plan limited accessory and ancillary retail and service uses may be allowed.

Construction group:

General Building Contractors (SIC 15)

Special Trade Contractors (SIC 17)

Manufacturing group:

Printing and publishing (SIC 27).

Drugs (SIC 283)

Soap, detergents, and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC 284)

Rubber and miscellaneous plastics products (SIC 30).

Fabricated metal products (SIC 34), except:

Ammunition, except for small arms (SIC 3483).

Ordnance and accessories (SIC 3489).

Industrial machinery and equipment (SIC 35).

Electrical and electronic equipment (SIC 36), except:

Power distribution and specialty transformers (SIC 3612).

Transportation equipment (SIC 37).

Instruments and related products (SIC 38).

Miscellaneous manufacturing industries (SIC 39).

Transportation, communication, and utilities group:

Motor freight transportation and warehousing (SIC 42), except.

Dead storage of manufactured homes

Automobile dead storage (SIC 4226 pt.)

Oil and gasoline storage caverns for hire and petroleum and chemical bulk stations and terminals for hire (SIC 4226 pt.)

Non-Residential and Roof Mounted Solar Energy Systems (SIC 491 (pt)) subject to the size and locational restrictions of 21-56(6)c.

Service industries group:

Engineering and management services (SIC 87).

Wholesale trade group:

Wholesale trade--durable goods (SIC 50), except.

Motor vehicle parts, used (outdoor) [SIC 5015]

Scrap and waste materials (SIC 5093)

Wholesale trade--nondurable goods (SIC 51), except.

Livestock (wholesale) [SIC 5154]

Chemicals and allied products (SIC 516)

Petroleum and petroleum products (SIC 517)

- b. The following are allowed with the issuance of a special use permit:

Manufacturing group:

Lumber and wood products (SIC 24).

Furniture and fixtures (SIC 25).

Paper and allied products (SIC 26).

Plastic materials, synthetic resins, etc. (SIC 282).

Stone, clay, glass, and concrete products (SIC 32).

Primary metal industries (SIC 33).

Transportation, communication, and utilities group:

~~Motor freight transportation and warehousing (SIC 42).~~

Transportation services (SIC 47).

Communications and telecommunication towers (SIC 48 (pt)).

Wholesale trade group:

~~Wholesale trade - durable goods (SIC 50).~~

~~Wholesale trade - nondurable goods (SIC 51).~~

Services group:

Racing, including track operation (SIC 7948).

Sec. 21-53. Permitted uses with special requirements and rural home occupations (RHOs).

Uses listed as SR (Special Requirements) in section 21-113, except those in the NB zoning district, which are subject to section 21-65, shall comply with the pertinent regulations listed in the following subsections. Site plan approval by the zoning administrator shall be required unless expressly provided otherwise prior to issuance of a zoning permit and such approval shall be given if all requirements herein are met. The plan shall become part of the building permit.

(1) *Rural Home Occupations [RHO].*

- a. *Purpose and Intent.* Rowan County recognizes the important role RHOs offer residents and the community in creating business opportunities to fulfill or supplement the resident's employment needs. Standards are established herein to protect adjoining properties from potential adverse impacts associated with these uses.
- b. *Development Standards.* All proposed operations are subject to general standards identified in sections 21-54 through 55, applicable specific standards in section 21-56, and other pertinent requirements of this chapter.
- c. *Combination Use.* In addition to the principal residential use, development of a RHO may constitute a second principal use whose occupancy classification is subject to the North Carolina Building Code for non-residential use as determined by the Rowan County Inspections Department.
- d. *Change in Operation.* RHOs permitted to comply with the provisions of section 21-55(2)~~b~~ shall be classified as non-conforming if a change in association between the residence and business operator occurs. As such, applicants should consider potential investment in the development of land and / or structures for RHOs and the inherent future limitations should the use become non-conforming. Many RHO locations would not adhere to the purpose and intent or land use recommendations for rezoning to a non-residential district.

- (2) *Specific criteria for uses listed as SR.* The SR standards required in Section 21-54 & 55 do not apply to uses in the residential group from 21-113; Common Sand Mining (SIC 1442); Dead storage of manufactured homes (SIC 42); Co-location of wireless facilities, eligible facilities requests, alternative tower structures, and public safety tower (SIC 48 (pt)); and uses listed as SR in non-residential districts.

Sec. 21-54. Maximum building size and setback requirements for RHOs. Reserved

~~Building size and setbacks for certain uses listed as "SR" in Section 21-113 shall be as provided in this section.~~

~~(1) *Building size.* The maximum allowable building size for uses listed in section 21-113 as "SR" in the RA and RR districts shall not exceed ten (10) percent of the gross acreage of the lot, excluding right-of-way with a maximum of 12,000 sq. ft. in the RA district and 2,000 sq.ft. in the RR district. Existing accessory structures for personal use not associated with uses permitted in this section must be considered within the maximum allowable building size for the property listed in section 21-285.~~

~~(2) *Building Setbacks.* Maximum square footage and related setback requirements shall be as specified below.~~

| Building Square Footage | Setback, Front (in feet) | Setback, Side, Side Street and Rear Yards (in feet) |
|------------------------------------|---|--|
| 0-2,000 | 30 | 20 |
| 2,001-4,000 | 40 | 30 |
| 4,001-8,000 | 50 | 40 |
| 8,001-12,000 | 60 | 50 |

~~Existing structures proposed for use as a rural home occupation that do not comply with these setbacks shall not be precluded from such use if all other requirements are met.~~

Sec. 21-55. General criteria for RHO uses listed as SR in Section 21-113.

Uses listed as SR in article III shall comply with the following criteria, as applicable:

- (1) *Site plan.* A site plan shall be provided showing the existing lot and all existing and proposed buildings.

(2) Residency. The RHO business must be on or adjacent to the primary residence of the business owner / operator consistent with subsection (3) and located in either the RA or RR district.

(2) Location. The RHO must be located on property which meets the following criteria:

a. The property must have at least thirty-five (35) feet of state road frontage. Properties that do not meet the requisite road frontage requirement are limited to a maximum building size of 2,000 sq. ft. and must comply with all other applicable standards herein.

b. The business must be on or adjacent to the primary residence of the business owner / operator but nonetheless shall be located on a lot containing required road frontage in subsection (a).

(3) Building size. The aggregate or maximum square footage for a building(s) used as a RHO is based on the type of road frontage; lot acreage, excluding right of way; and zoning district, subject to:

a. Location on a parcel containing at least thirty-five (35) feet of state road frontage.

1. 10% of the lot size with a maximum of 12,000 sq.ft. in the RA district.

2. 10% of the lot size with a maximum of 2,000 sq.ft. in the RR district.

b. Location on a parcel not meeting road frontage standard of 21-55 (3)(a).

1. 10% of the lot size with a maximum of 2,000 sq.ft. in the RA and RR districts.

Existing accessory structures for personal use not associated with uses permitted in this section must be considered within the maximum allowable building size for the property listed in section 21-285.

(4) Building Setbacks. Setback requirements shall be as specified below.

| Building Square Footage | Setback, Front (in feet) | Setback, Side, Side Street and Rear Yards (in feet) |
|--------------------------------|---------------------------------|--|
| 0--2,000 | 30 | 20 |
| 2,001--4,000 | 40 | 30 |
| 4,001--8,000 | 50 | 40 |
| 8,001--12,000 | 60 | 50 |

Existing structures proposed for use as a rural home occupation that do not comply with these setbacks shall not be prevented from such use if all other requirements are met.

(5) Lighting. The lighting shall be shielded to prevent light and glare spillover to adjacent residentially developed properties.

(6) Square footage. The maximum square footage allowed for a use shall include all buildings used for retail sales of any type on that property.

(7) Parking. Parking shall be provided off-street subject to article VII for that use.

(8) Signage. Signage shall be as prescribed in article VIII for the underlying district.

(9) Noise. Noise shall not exceed the levels prescribed in the county noise ordinance for residential districts.

(10) Outdoor storage. All outside storage areas including dumpsters shall be:

a. Sited to the rear of the building;

b. Not within the required setbacks.

c. Outdoor storage shall be screened as provided in article IX for that use.

(11) Smoke, odors and dust. The use will not create any smoke, odors, or dust at a level discernible at any of its lot lines.

(12) Required licenses and permits. The applicant shall provide a copy of all required licenses and permits prior to issuance of a zoning permit.

(13) Handling waste and other by-products. A description shall be provided of the method of collecting, handling, disposal and storage of all wastes, by-products, scraps, etc. which meets all applicable federal, state and local regulations and all other requirements of this chapter.

(14) Activities. Manufacturing activities are confined to the building.

~~(13)~~ (15) *Outdoor display.* Outdoor display shall be limited to two thousand five hundred (2,500) square feet unless otherwise provided.

~~(14)~~ (16) *Screening.* Any structures and operational areas used for the business must be screened in accordance with Article IX. This requirement does not apply to a residence(s) on the same parcel or an adjacent parcel if in the same ownership as the land on which the RHO is located or is owned by an immediate family member as defined by this ordinance.

Sec. 21-241. Noise.

(b) *Applicability.* Regardless of zoning district, all existing uses in the mining and manufacturing division of the Standard Industrial Classification (SIC) and those seeking special use **or conditional district** approval in the transportation, communications, electric, gas, sanitary services, Services, and unclassified divisions of section 21-113, the table of uses, shall be subject to the decibel based standards of this section.

Sec. 21-315. Hearing procedures for zoning map and text amendments, high density and special use permits, variances, and appeals, ~~and interpretations.~~

(1) *Public notice.* The following notice requirements shall apply to legislative, courtesy, and quasi-judicial hearings required by this chapter as indicated below except as provided in section 21-316 and otherwise indicated herein:

b. *Mailed notice.* In addition to the newspaper notice required above, the administrator shall provide mailed notice to the owner(s), **and** applicant, of the subject property(s) and all property owners according to the county tax listings within one hundred (100) feet of the parcel(s) **or proposed rezoning boundary** ~~subject to the proposed action~~ for the above referenced requests except only mailed notice to the applicant of a text amendment. For the purposes of this section, the distance encompassed by a street, railroad, or other transportation corridor is not included within the one hundred (100) foot distance for adjacent properties. The notice must be deposited in the mail at least ten (10) days but not more than twenty-five (25) days prior to the hearing date. If, in the discretion of the administrator, the potential impact of the proposed action or the configuration of land parcels in the area warrants notification of additional property owners beyond this distance, such notice shall be provided.

(4) *Conduct of hearing.*

d. *Written citizen comments.* If a resident or property owner in the county submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation authorized by G.S. 160D, Article 7 to the clerk to the **respective board of commissioners** at least two (2) business days prior to the proposed vote on such change, the clerk shall deliver the statement to the board. If the proposed change is the subject of a quasi-judicial proceeding, the clerk to the respective board shall provide only the names and addresses of the individuals providing written comment, which shall not disqualify any board member from voting.

(7) *Action.* Once a legislative or courtesy hearing is closed, the appropriate decision-making body shall take some form of action during the same meeting. Such action may include continuing the hearing to a later meeting. In cases where the planning board is authorized to make a recommendation, the board shall follow action procedures of Article XIV.

In quasi-judicial decisions, the board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board and is effective upon filing with the **clerk to the respective board** ~~Planning Department~~.

ARTICLE XIII. APPEALS, **AND VARIANCES.** ~~AND INTERPRETATIONS~~

Sec. 21-331. Appeals.

Appeals of orders or decisions of the zoning administrator shall be conducted as follows:

(1) *Notice of appeal.* Any person who has standing under G.S. 160D-1402 (c) or the county may appeal any order or decision of any administrator of this chapter to the board of adjustment (BOA). An appeal is initiated by filing a written notice of appeal with the clerk to the Board of Adjustment, which specifies the grounds for the appeal. The clerk shall note the date and time of receipt of the appeal. **The BOA shall hear all appeals within a reasonable time except as referenced in subsection (3).**

(3) *Stay of action.* An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the BOA and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the administrator who made the decision certifies to the BOA after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed,

the appellant may file with the official a request for an expedited hearing of the appeal, and the BOA shall meet to hear the appeal within fifteen (15) days after such a request is filed. ~~The BOA shall hear and decide all other appeals with a reasonable time.~~ Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations the appellant or county may request and the BOA may grant a stay of a final decision of development approval applications affected by the issue being appealed.

Sec. 21-332. Variances.

Requests for a variance from the requirements of this chapter shall be in accordance with the following criteria:

- (1) *Application for variance.* An application for a variance shall be submitted to the BOA by filing a copy of the application with the administrator in the planning department. Hearings for such applications shall be in conformance with the applicable provisions of Article XII. **The BOA shall hear variance requests within a reasonable time.**

Sec. 21-362. Map amendments (rezoning).

- (o) *Statute of limitation.* An action challenging the validity of a zoning map amendment adopted pursuant to this subsection shall be brought within ~~one (1) year~~ **sixty (60) days** of adoption.

8. FINANCIAL REPORTS

Finance Director James Howden presented several financial graphs depicting the following information:

- Annual Cumulative Expenditure Comparisons as of October in FY 2021-22.
\$48,318,848
- Annual Cumulative Revenue Comparisons as of October in FY 2021-22.
\$70,767,661
- Annual Cumulative Current Year Property Tax Comparisons as of September in FY 2021-22. \$55,528,366
- Annual Cumulative Sales Tax Comparisons as of July in FY 2021-22.
\$2,907,308

9. BUDGET AMENDMENTS

Finance Director James Howden presented the following budget amendments for the Board's consideration:

- Finance requested an encumbrance budget amendment to allocate restricted sales tax set aside for capital improvements by RSS and KCS in prior years that has not yet been used. \$3,070,740
- County Manager – Requesting use of ARPA funds to distribute to distribute to all the Fire Districts and Rescue Squad in Rowan County. Board approved allocation on November 1, 2021. Budget amendment is to match the request. \$1,250,000

Commissioner Pierce moved approval of the budget amendments as presented. The motion was seconded by Commissioner Greene and passed unanimously.

10. ADJOURNMENT

There being no further business to come before the Board, Commissioner Pierce moved to adjourn at 10:56 p.m. The motion was seconded by Commissioner Greene and passed unanimously.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Carolyn Barger".

Carolyn Barger, MMC, NCMCC
Clerk to the Board