

Department of Planning & Community Development



A meeting of the Franklin County Planning Commission was held on February 8, 2022 in the Board of Supervisors meeting room located in the Franklin County Government Center.

THOSE PRESENT:

Sherrie Mitchell- Snow Creek District
Debbie Crawford- Union Hall District
David Clements- Rocky Mount District
C.W. Doss, Jr.- Blue Ridge District
David Pendleton- Blackwater District
Cheryl Ege- Gills Creek District – Via Zoom
Angie McGhee- Boone District (Via Zoom)

OTHERS PRESENT:

Carrie Spencer- Planning & Community Development
Lisa Cooper- Interim Director, Planning & Community Development
Tim Mack – Senior Planner
Mindy Goldsmith- Clerk
Chris Dadak, County Attorney

The meeting was called to order by Chairwoman Mitchell at 6:00 p.m. The next order of business was the approval of the minutes from the January 11, 2022 meeting. Chairwoman Mitchell asked the Planning Commission if there were any comments or corrections to the minutes as written; there were none. Chairwoman Mitchell announced the minutes would stand as written.

Chairwoman Mitchell introduced the next item on the agenda and asked for the staff report.

APPLICATION for REZONE – Application of Cooper Properties, LLC, Applicant, and Owner, requesting to rezone an approximate 11.4-acre portion of property from A-1, Agricultural, to M-1, Industrial, with possible proffers. The property is located along Grassy Hill Road in the Blackwater District of Franklin County and further identified by real estate records as Tax Map/Parcel # 0560004300. The property has a future land use designation of Agricultural, Forestry/Rural Residential. The purpose of this request is to rezone the 11.4-acre portion as additional acreage, via boundary line adjustment, to the adjoining parcel located at 3325 Grassy Hill Road (Tax Map/Parcel # 0550002701) to match its current M-1 zoning district, and to allow for the expansion of warehouse facilities and tractor trailer parking (Case # REZO-01-22-17142).

Mr. Mack presented the staff report. He presented the history of the zoning for Cooper Properties. Mr. Mack presented the concept plan and the applicant's request for rezone. Mrs. Mitchell asked if any commissioners had questions. Mrs. Mitchell requested to view the future land use map again. The applicants, Kevin Wood from Cooper Properties, and Mr. Uttermost from the Uttermost company rose to speak to the commissioners. Mr. Wood explained that the Uttermost company has been very blessed, and their business has increased by more than 50% in the past year. The application is critical to their long-term success. Mr. Wood invited the commissioners to ask questions. At this time Mrs. Mitchell gave audience members an opportunity to speak to the application. Hearing none, Mrs. Mitchell closed the hearing for public comments.

Mrs. Crawford stated that she feels the Uttermost company has been a great neighbor for the county and supports the application. Mr. Pendleton motioned approval of the application. Mr. Clements stated that the application will not be of substantial detriment to adjacent properties, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of the County Code, the uses permitted by

right in the zoning district, and with the public, health, safety and general welfare to the community. Second by Mr. Clements.

The motion to approve was approved; voting on the motion was as follows:

AYES: McGhee, Clements, Pendleton, Doss, Ege, Crawford, Mitchell
NAYES: None
ABSENT: None
ABSTAIN: None

Chairwoman Mitchell announced the next item on the agenda and asked for the staff report.

APPLICATION for REZONE – Application of George I. Vogel, III, Applicant, and Coves Land Holdings, LLC and The Coves at Smith Mountain Lake Owners Association, Inc., Owners, requesting to rezone an approximate 37.59 acres of property, currently in eight (8) parcels, from A-1, Agricultural, R-1, Residential Suburban Subdivision, and RPD, Residential Planned Unit Development, to RPD, Residential Planned Unit Development with revised proffers. The properties are located along Coves Road, Cliffs Drive and Watersong Circle in the Union Hall District of Franklin County and further identified by real estate records as Tax Map/Parcel #s 0520000400, 0520000401, 0521003300, 0521003400, 0521003500, 0520604300, 0521001800, and 0520907400. The properties have a future land use designation of Low Density Residential. The purpose of this request is to add acreage to the district, revise the previously approved sketch plan, permitted uses, and unplatted lot dimensions (Case # REZO-12-21-17127).

Mrs. Spencer presented the staff report to the commissioners. Mrs. Spencer described the history of The Coves and previously approved zoning. Some of the side setbacks were reduced to zero in the previous zoning. Mrs. Spencer also presented the currently approved sketch plan of The Coves. Mrs. Spencer invited commissioners to ask questions as she presented the information. Mrs. Crawford clarified that as of now, The Coves has previously received an approved zoning, and this will not change. Mrs. Spencer stated the density will not be changed, as well as the size of the lot. The zoning was completed in 2006. Mrs. Ege asked if some of the setbacks were previously approved to zero and Mrs. Spencer clarified that previous zero setbacks were already approved in the previous zoning. Mrs. Spencer explained that the final order for The Coves was in the packet for the commissioners to review. Mrs. Spencer further explained that there were several orders and special use permits that were approved by the Board of Supervisors in 2006. Mrs. Spencer explained that the setback is outlined in "Deviation #1". Mrs. Mitchell also explained there was a deviation from the frontal road setback that was also approved in 2006.

The current request is to rezone a portion of The Coves, which Mrs. Spencer outlined by explaining the detailed area on the map which specifies the area of rezoning. Mrs. Crawford stated that only one lot will be affected by the change. The other lots on the lake are not changing. The Cliffs is not being included in the application. The rezoning request is a total of eight acres to revise the concept plan and proffers of the neighborhood. One of the proffers is a new use of the designated area. Mrs. Spencer gave further background information regarding The Coves and the concerts held the previous summer. Mrs. Spencer explained when an event permit is required. The owner wishes to continue the use of the concert venue in a portion of the open space and to change the concept plan to a seasonal venue. There are also topographical challenges on the property. Mrs. Spencer explained the proffers the applicant is requesting. The overall lot density is not changing from the 2006 approval.

The applicant has requested that certain open space areas be used as a venue for events, and the side setback be reduced to zero, but is guaranteeing a minimum of 20 feet between homes for fire safety purposes. This is a clarifying point because the previous side setback was approved at zero feet. The applicant is requesting that the front setback requirement be reduced to 20 feet, which is a typical setback for a more traditional type of neighborhood. The deviation is requested due to topographical constraints. The applicant has also requested a reduction of the parking space sizes because the parking is on level terrain. This would allow for more parking spaces in a safe manner. A 3-acre lot would be added, and the request is to rezone to RPD, as well as other lots in

the application. Lots 5-40 will be realigned according to the sketch plan. The open space area will be subject to restrictive covenants. The applicant would like to vacate a 30-foot exterior boundary. This is not a buffer that runs along the shoreline. This is a buffer on an interior part of the property to the south of The Coves. Mrs. Spencer displayed a map of The Coves that designates the lots being requested for rezoning. She also explained the location of the parking lot and the concert venue. Mrs. Ege stated that there is a neighborhood that backs up to the open space area. Mrs. Crawford pointed out that only one home is built in the neighborhood that abuts The Coves.

Mrs. Spencer presented the analysis of the application and that the noise ordinance would be followed for the events. This is monitored by the sheriff department. Staff held a meeting of the development review team to discuss concerns that have been heard in the past month. The development review team comments included VDOT, which did not have concerns and will work with the applicant to review traffic. The sheriff's office stated there had not been complaints or issues during previous events. The event coordinator will be in close contact with the sheriff's office. Fire and EMS did not have concerns and wished to ensure roads had adequate turning radius for the rescue vehicles. VDH stated that The Coves complies and must renew the permit yearly for portable toilets and waste system. Food vendors must also submit permit applications. The building official stated the stage was properly built and inspected. AEP did not have objections.

The applicant has submitted a list of thirteen items as an explanation to help alleviate some of the concerns expressed by the public. The applicant also offered comments regarding non-zoning items of concern. Mrs. Spencer again explained that The Cliffs is not included in this request and a full site plan will be reviewed and approved by the Development Review Team per regular departmental process. Mrs. Spencer stated that staff recommends approval with the ten proffers and deviations submitted by the applicant. Mrs. Mitchell asked if commissioners had questions. Mrs. Crawford thanked the staff for their work.

Mrs. Ege asked about the December 6th letter and questioned the applicant's statement regarding lot density. Mrs. Spencer stated that the lot density is calculated by the overall acreage. The minimum lot size of 7500 feet is approved per the original zoning. Each lot cannot be smaller than 7500 feet. Mrs. Ege stated that some of the lots were going to be drain fields, and Mrs. Spencer stated that is one reason rezoning is required. Mrs. Ege feels this is a significant revision to the original plan. She feels the application has two components: a redesign of the community and the concert venue as a separate issue. She also stated she does not feel what has been described tonight are true proffers. She feels the developer is asking for greater flexibility to lessen the construction costs. She feels these are deviations and not proffers. She is also concerned about counting open space when there may be disturbance of the land. She feels the county code describes open space as no disturbance of the land. Mrs. Spencer clarified the zoning ordinance and explained that open space can be developed, and the zoning ordinance defines how the open space can be developed. Mrs. Ege asked if the developed open space would be within 5% per the zoning ordinance. Mrs. Mitchell explained that applicants can submit proffers which can be approved by the Board of Supervisors. Proffers can mitigate impact and be a request as an added use. Per Mr. Dadak, the proffer is the only mechanism the applicant must describe what deviations are being requested. Mrs. Crawford asked if the word "deviation" could be added, but Mr. Dadak feels proffer is synonymous with deviation. Mrs. Mitchell clarified that we don't impose proffers. The applicant offers proffers. Mrs. Mitchell clarified there are times when proffers are added between the planning commission public hearing and the board of supervisors public hearing.

Mrs. Ege also asked about the parking spaces currently available, and Mrs. Spencer stated the applicant will address this question. No other commissioners had questions, and Mrs. Mitchell invited the applicant to address the commissioners. Mr. Vogel stated he and the applicant had worked closely with staff to help mitigate concerns. Mr. Vogel gave a history of the development of The Coves. The HOA owns the common areas and the amphitheater. Mr. Vogel explained that The Cliffs was never plotted and has no set design at this point. The developer is unsure of his plans for future development. He stated firmly that the applicant is not deviating from the design of the past fifteen years. He stated this is not a drastic change to The Coves. The proposed changes, per Mr. Vogel, are changes to the assembly of the public plus improved development of The Coves. Mr. Vogel explained the economic impact of the Amphitheatre for Franklin County. The profits of the concerts go to charity. The developer coordinates with Smith Mountain, Inc. Approximately \$19,000 was contributed to the charity in 2021. They anticipate 12-15 concerts, but no more than 20 between April and October 2022. The maximum attendance would

total 1800 for an individual concert. Medical staff will be on site for events of more than 300 people. Lighting will be controlled, and they will abide by the county noise ordinance. Mr. Vogel clarified that the emergency area and club house are not part of the open space. This area is on Lot 35 and is not subject to open space rules. There is one barn that has been there for quite some time, and then grass areas for designated parking for handicapped patrons. The grass field is open space and there will not be development on the open space.

Mr. Vogel then explained the developmental changes. In 2021 there were 18 events that required a special use permit for every event. The change is to allow for a permitted event venue to alleviate both The Coves and county staff from all the work required to permit individual events. He explained that after ten years of development, the better utilization of the land would be more easily accomplished via the requested changes in the application. As homes are built closer to the water, the more the land is disturbed. It was discovered that the homes should be closer to the road versus the water, to create a shorter driveway and a more natural setting. Also, the request to allow the homes to be built more to the side of the lot alleviates topographical concerns. They will leave 20 feet side setback for fire safety purposes. The additional lots requested are off the water, to minimize the impact on the waterfront, and some of the lots needed to be combined because the ridge on the south of the property presents advantageous views of the lake and mountains. Mr. Vogel stated they would remove the additional lots on the new concept plan and return to the original concept plan to alleviate some public concerns. He proposes that The Cliffs be depicted as they were in the 2006 concept plan. He stated they were not trying to add lots to The Coves.

Mr. Vogel addressed the 30-foot preservation buffers. Some lots are on Ivy Lane and there is one house on Commodore Cape. The homeowner has submitted a comment that he supports the application and has no concerns. He is not concerned about the buffer. Mr. Vogel explained that they need to vacate the buffer because of the septic drain field. He feels it needs to be removed from the concept plan. Mr. Vogel invited questions from the commissioners. Mrs. Ege stated she had questions. She first asked about the drain field. Mr. Vogel stated it was an installed and approved drain field for Lot 35. The sewer easement runs out near the drain field. Mr. Vogel also stated that Lot 35 was submitted previously and is an approved developmental lot. Mrs. Ege asked about the loop road around the amphitheater. Mr. Vogel stated it is a partially packed gravel and soil permeable road. Mrs. Ege asked if there was a maximum number of people allowed per the fire marshal. Mr. Vogel stated that because it is open space, he does not believe there is a fire marshal mandated maximum number of people. He stated that 1800 people would represent 900 cars. Mrs. Ege asked about a traffic impact study and Mr. Vogel stated they had not performed a traffic study but did work with the sheriff's office. Mr. Vogel stated that 1300 people attended one of the concerts last year. Mrs. Ege stated she had concerns about safety and planning of events that would draw a large number of attendees. She also stated she felt only two permits were issued the previous year. Mr. Vogel stated that seven permits were issued last year, and the other events did not require a permit because the attendance was under 300 people. Mrs. Spencer stated that permits did relate to the zoning. Mrs. Ege also remarked that pathways were uneven and felt they might be hazardous to concert attendees. Mr. Vogel stated that they have already begun working on the pathways to make them more even. Mrs. Ege asked about an ADA review. Mr. Vogel explained that the ADA compliance related to the number of parking spaces and access to an designated area. Mrs. Ege also asked about VDOT and whether the roads would be accepted by VDOT. Mr. Vogel explained that the plan is to keep the roads private, but they are maintained to VDOT requirements. Mrs. Ege further asked about how long the events would last and would an event last 12 hours. Mr. Vogel explained that the reason for the 12-hour time limit is to ensure setup and tear down along with the actual event. The other reason would include two events in one day. This would allow for setup and tear down for two performers. Mrs. Crawford clarified that all events would end by 10 PM. The county's ordinance designates 11:30 PM. Mrs. Ege asked if noise was monitored last year and would a noise measurement apparatus be used this year. Mr. Vogel stated they cannot test the noise level on private properties, however if a complaint is filed, the sheriff department can measure the sound at the private property. Mrs. Ege also asked about the porta-johns and stated she wouldn't want to see a row of porta-johns near her property. Mr. Vogel stated the porta-johns are positioned properly and is not aware of any complaints last year. They are on private property and are in the woods. They are also easily accessible for the handicapped. There is also a porta-john near the handicapped parking. Mrs. Ege asked if there was plumbing in the clubhouse. Mr. Vogel explained that the clubhouse is designed as a home and the "ready room" is used by the performer. Mrs. McGhee asked if any of the porta-johns were visible by any residents. Mr. Vogel stated they were not. Mrs. Mitchell asked how many additional parking spaces would be gained. Mr. Vogel stated that none would be gained. Mrs. Mitchell

clarified that the portable restrooms are in the woods and not visible at this time but asked if there were plans to have any visible this year. Mr. Vogel explained that only the handicapped portable restrooms would be visible.

Mrs. Mitchell invited questions about the 30-foot buffers and the setbacks. Mrs. Ege stated she had a question about the setbacks. She asked if a home could be built next to an existing home would there be a zero-foot setback. Mr. Vogel explained that the minimum 20-foot distance would be maintained. Mr. Crumpler clarified that this would not be an issue because the immediate lot would not need the zero-foot setback. He also stated they had a committee that ensures the integrity of the community and the design. Mrs. Ege also asked about additional docks on the revised concept plan versus the original plan. She feels the new revised plan shows many more docks. Mr. Vogel explained that the current docks are already constructed, and one is permitted to be constructed. They were originally intended for waterfront docks; however, this is now open space. The docks closer to The Cliffs have not gone through the permitting process. Mrs. Ege asked if there was an intention to bring people in by water for the concert venue. Mr. Vogel stated the topography of the land would not be conducive to allowing the public to approach by water. The current docks are for existing homeowners. Mr. Vogel explained that they agreed to add items #9 through #13 in their guidelines as additional proffers to the ones listed in the application. There will be a total of fifteen proffers. Mrs. Spencer asked that the additional proffers be submitted in writing. Mrs. Mitchell asked if there were any further questions from the commissioners. Mrs. Mitchell requested a five-minute recess.

Mrs. Mitchell opened the application to public comment. Mr. Pete Kauffman addressed the commissioners. He read a statement to the commissioners. He made remarks about what he views across the lake in terms of flora and fauna. His remarks addressed the topography around The Cliffs. He has concerns about the noise and the right of people to enjoy peace and quiet in their homes. He feels there are other locations that could be used as a venue for concerts. He feels the changes requested are subtle and is concerned about tearing down of trees. He asked the commissioners to listen carefully to everyone's concerns. Sam Bready addressed the commissioners. He stated the concert he attended last year was well run and he had a good time. He stated that the events averaged about 274 attendees. He feels overall the concerts were very well done. The portable toilets were far away from the food venues. He stated that he did not see any law enforcement during the concert he attended. He stated people were drinking beverages at their cars, but not on the open lawn. He stated he was not in favor of easing the application process for 12-15 events. He asked that there be a limit of attendance and feels there are many safety risks.

Darlene Dickerson spoke to the commissioners and presented a sound slide. She is a licensed speech pathologist. She asked the commissioners to look at the chart of sounds. She referred to the noise ordinance and the number of decibels allowed. She stated that music is music until it's noise. It is noise when you don't want to hear it. She stated her home is 5000 feet from the amphitheater. She stated she can clearly hear the music. She stated it interferes with her outside activities. Mr. Leo Zevlas rose to speak. Mr. Zevlas is a sound engineer. He explained how sound is amplified. He described the amphitheater sound layout. He stated sounds coming from a stage rarely sounds like music and that water carries sound very efficiently. He stated he can hear the sound like it's in his house. He feels the noise can be curtailed at the stage. He feels a different configuration of the stage would control light and noise.

John Goldwater addressed the commissioners. He stated he is diagonally across from The Cliffs. He stated he worked in the insurance industry and understands risk. He stated he doesn't understand the wisdom of fast-tracking a zoning request this complicated. He stated music events present significant liability exposures. The Coves is remote and off two secondary country roads. He feels likely emergency scenarios may occur. He also feels that the fire risk is the highest on the "ISO Scale". He said the 20-foot setback does not work in remote locations. Jay Schaffner was the next citizen to address the commissioners. He expressed his concern about traffic. He stated the road is only 18 feet wide on Kemp Ford Road. He stated he was run off the road after a concert last summer. He stated there are ten blind curves on Kemp Ford Road. He thinks people may be driving in a hazardous manner. He stated one concert caused the walls to rattle in his house. He said it made no sense to have this level of traffic on a country road. He also expressed concern about large heavy vehicles. Mr. Victor Evans rose to address the commissioners. He stated he lives close enough to The Coves to hear the concerts. He is concerned whether the natural beauty will be properly managed. He stated it does not make sense to him that zoning deviations were

inserted along with a change for the concert events. He thinks multiple zoning deviations have been inserted in the application to the applicant's benefit and should be separated from the request regarding the concert venue.

Mrs. Peggy Ephrath next addressed the commissioners. She stated she lives in The Retreat on Stillwater drive. She states she is very close to the venue. She stated she loves the area and attending the concerts, but she asks that they also think about the community in general. She stated that South Lake Spa and the amphitheater gave them a "real" community. She stated she has more construction on her street versus The Coves. She supports the applicant. Mr. John Soma addressed the commissioners. He stated he concurred with the previous speakers. He feels rezoning for additional housing density is not in harmony with the existing zoning. He said homeowners would not benefit. He stated he is against the amphitheater because he must plan guest visits to his home. It has deprived him of quiet enjoyment on the evenings of the concerts. He requests that the application be denied. He stated he'd like to see the amphitheater moved elsewhere.

Lisa Leeds addressed the commissioners. She stated she works at SML Good Neighbors. The funds raised last year purchased over 8500 meals for children. She wanted the commissioners to know the importance of the charitable donations and she is sad to hear that some people had been negatively affected.

Mike Smith spoke to the commissioners. He stated he does not understand why the 30-foot preservation buffer needs to be removed in its entirety due to one septic drain field, and he had a concern about water and wastewater from the expensive homes. He is not familiar with whether people have septic tanks and wells.

John Bushner addressed the commissioners. He stated he understands the value of music and is asking for due diligence. He asked the commissioners to take time to make the decision. Think about being a neighbor and give it more time instead of fast-tracking it. He stated he had to move inside a few times last summer to get away from the noise. Kerry Jackson spoke to the commissioners. She stated she attended all the events. She stated she's been in the barn and was not able to hear the music. She stated she monitored the sound and has feels it has followed the time zone and noise ordinance. She feels Mr. Crumpler tries very hard to be a good neighbor. She also stated the community's children benefitted from the charitable donations. She stated 15 shows were only 4% of the year. She stated she does not call the police when residents are shooting their guns.

Mr. Russell Sennel addressed the commissioners. He stated the developer has done a great job with The Coves. He feels that as time passes, there is a need to change to keep up with the times. He stated he has enjoyed the concerts. He feels they are bringing income to the county. He stated that he feels Mr. Crumpler has the right to do what he wishes with his land.

Paulette Chitwood addressed the commissioners. She stated her front door is fifty feet from Standiford Road. She stated she sees the traffic from the concerts and people are not rude. She has not witnessed any problems with traffic. If the residents would adhere to the speed limits, it would help. She stated she sees no problem with the traffic and watched the traffic all summer.

Mrs. Mitchell closed the period of public comment. Mrs. Mitchell invited Mr. Vogel to address any of the comments. Having none, the commissioners discussed the application. Mrs. Mitchell stated we have heard almost an hour of public comments and have received over 70 emails. Mrs. Cooper read a statement from Mrs. McGhee, who stated she would like to remind everyone that Smith Mountain Lake is a public lake. Mrs. Crawford asked Mrs. Spencer to explain fast-tracking. Mrs. Spencer stated that fast-tracking was for emergencies or under certain conditions. Mrs. Crawford stated that fast-tracking did not mean staff did not perform its due diligence. Mrs. Spencer also stated it was appropriate to have the area rezoned because it is a seasonal event. Mr. Crumpler would still apply for individual permits. Mrs. Crawford stated she had attended one concert and it was a pleasant experience. She stated she hears the 4H Center weekly, the gun club, and other noises on a regular basis. She stated that the lake was built to be a power source and it was built to be a recreational lake. It was not built to be a retirement community. She feels that as the Union Hall Village Plan progresses, The Coves is an asset to the village plan. She feels The Coves has done an excellent job and she witnessed people directing traffic and police officers in uniform. She is prepared to make a motion.

Mrs. Ege asked Mrs. Spencer if the zoning ordinance is silent about a permanent event. She does not believe the code allows for an event on a permanent basis in an RPD zone. Mrs. Spencer stated the current system allows for proffers and is listed as a “place of assembly” in the zoning ordinance. She stated there is a legal mechanism to proffer additional use to a zoning ordinance. Mrs. Ege stated she disagreed. She also asked about the design guidelines in an RPD zone. She stated that vegetative screening should be present to protect residents. She feels removing the buffer would be in violation of the code. Mrs. Spencer read the ordinance publicly and stated there is room for interpretation of this section of the code. Staff determined that removal of the buffer would not leave people vulnerable. Mrs. Ege stated her professional interpretation was that removal of the buffer would be a detriment. Mrs. Ege stated counting a concert venue as open space is a violation of the code. Mrs. Spencer read from the ordinance regarding open space. Mrs. Spencer stated that acquired properties may help the applicant meet the 50% requirement. Mrs. Cooper stated that in the RPD District zoning ordinance, the RPD does allow for flexibility or deviation. The deviations are demonstrated on the concept plan, and if it is approved, the deviations can be accepted. Mrs. Ege disagreed. She feels there are significant deviations from the “master plan”. She would like a more detailed master plan. She feels this is a new land use request. Mrs. Cooper stated that Mrs. Ege can ask to table the application. She also stated that she feels the consultants for the Union Hall plan have identified an intersection that could be a potential traffic problem. She would like a traffic study.

Mrs. Crawford referred to the Smith Mountain Lake wine festival. Close to 30,000 people attend the festival and she does not see The Coves as being a problem. She stated The Coves is closer to Route 40. Mrs. Ege corrected Mrs. Crawford regarding lined roads. Mrs. Ege asked about emergency and medical services. She wondered if the host is paying for the sheriffs and medical personnel, or is the taxpayer responsible? Mrs. Spencer clarified that the owner pays these expenses. Mrs. Crawford also thanked Good Neighbors of Smith Mountain Lake. Mrs. Crawford made a motion to approve the application. She Clements stated that the application will not be of substantial detriment to adjacent properties, that the character of the zoning district will not be changed thereby, and that such use will be in harmony with the purpose and intent of the County Code, the uses permitted by right in the zoning district, and with the public, health, safety and general welfare to the community. Second by Mrs. McGhee. The application will be heard by the Board of Supervisors on February 15th. The voting for the application was as follows:

AYES:	Pendleton, Clements, McGhee, Doss, Crawford, Mitchell
NAYES:	Ege
ABSENT:	None
ABSTAIN:	None

Old Business:

Solar Ordinance:

Mrs. Mitchell explained that the solar ordinance was tabled from January so that staff could address some of the commissioners’ concerns. Mr. Mack listed the concerns in a memo, which was included in the meeting packet. Mrs. Spencer researched the 60-acre cap, and the cap was chosen due to topography. Staff feels the 60-acre cap and the requirement of a rezoning for a larger farm would require a rezoning application. Staff recommends removing the 60-acre cap but keep the aggregate cap. Mrs. Mitchell stated she felt they could use the memo provided by Mr. Mack as their talking points. The cumulative acreage cap would remain as recommended. Mrs. Spencer explained that even in A-1, we would want a zoning and SUP for anything over 60 acres, therefore the 60-acre cap would be redundant. To restate, a utility scale facility would require rezoning and a special use permit regardless, therefore the 60-acre cap is superfluous to the ordinance. Mrs. Spencer explained that the 60-acre cap idea originally came from Rockingham County. Mr. Doss stated he supported the idea of removing the 60-acre cap and from what he has learned, if the larger solar companies cannot purchase a larger acreage, they will look elsewhere and not build in Franklin County. Mrs. Spencer stated a cap would be relevant if we were not requiring a special-use permit. Mrs. Mitchell asked if the result could be a 1500-acre solar facility. Mrs. Spencer stated that yes, however the ordinance is very tight. Mrs. Spencer also clarified that all non-zoned areas do not require special use permits. Mrs. Spencer

stated there was discussion about the non-zoned areas, but they need to be sure they do not behave as if they are zoning in a non-zoned area. Mrs. Spencer stated that a comprehensive plan would be required in the non-zoned areas, and the planning commission would review the comprehensive plan. Mrs. Cooper stated that conditions cannot be placed on a comprehensive plan in a non-zoned area. Mrs. Ege asked what would happen if a concept plan is not in compliance with the comprehensive plan. Mrs. Cooper stated that the Board of Supervisors could over-rule the Planning Commission, and the applicant could appeal the decision.

Mrs. McGhee stated she agreed with the staff's recommendation and would prefer to make decisions on a case-by-case basis. She feels we can amend the ordinance as appropriate. Mrs. Spencer stated staff did not recommend a change to the cumulative cap of 1500 acres. Mr. Doss does not agree with keeping the 1500-acre cap. He feels this would limit the size of a utility scale farm and limit a farmer's ability to earn additional revenue. He feels there is a lot of land in the county that could be utilized. Mrs. Cooper suggested a 1500-acre cap in the zoned areas only. Mr. Dadak stated they needed to determine if it was in accordance with the comprehensive plan. It was suggested that we apply the 1500-acre cap to the zoned areas only and not the non-zoned. Mrs. Crawford still feels that we are trying to tell people what they can and cannot do with their land. She is asking how we can justify taking away people's rights. Mrs. Mitchell stated that in this case they need to define what the county will look like. It is their role to assist the Board of Supervisors in defining the county's land use. Mrs. Mitchell stated she thought the 1500 cap was for the entire county. Mrs. Spencer stated that to comply with the law, we should only apply the cap to the zoned areas. Mrs. Ege asked if the cap could be included in the comprehensive plan. Mrs. Spencer explained that it could not because we would enter the realm of zoning within a non-zoned area. Mrs. McGhee does not agree with the 1500-acre cap. She agrees with Mr. Doss and Mrs. Crawford.

There was a 4-3 vote to keep the 60-acre cap and a 4-3 vote to keep the 1500 overall acreage cap in the zoned areas of the county.

Setbacks: The determination is that setbacks could be determined on a case-by-case basis with special use permits. The suggestion is a 300-foot setback at the road, and 150-foot setbacks on the sides and rear. Mrs. McGhee stated she agreed with the revised setbacks as well. After discussion, the vote was 7-0 to accept the staff's recommendation.

Development in the Designated Growth Area (DGA): Mrs. Mitchell stated this item has been discussed at length in the past. Mrs. Spencer suggested additional criteria stating that the consideration of the solar facility in a DGA could include the additional criteria that it would not conflict with the policies of any adopted plans for the requested area. Mrs. Mitchell stated they had a previous consensus for the DGA and criteria, however now that we have a new commissioner, we need to revisit the DGA topic. Mrs. Ege stated she could approve this section with the additional criteria. After more discussion Mrs. Ege stated that with further evaluation, she could support removing the staff's recommended bullet. After reaching consensus, the vote for this section was 7-0 to keep the designated growth section the same, with no changes.

The next point was the five-mile minimum distance between facilities. After research, the staff suggest considering a one-mile minimum distance. Mrs. Crawford asked why even have a minimum distance. Mrs. Spencer stated that because solar is a new topic, the decisions for what to place in the ordinance is difficult. Mrs. Ege stated it would be helpful to know where the major transmission lines were located. Mrs. Spencer stated the SUP process would allow for decision making in certain areas near transmission lines. Mrs. Ege also asked about whether additional substations would be built by the solar utility facility itself. Mrs. Spencer explained that these facilities are usually quite large, and we cannot anticipate every situation. We just need enough tools to evaluate each situation with appropriate guidelines. Mrs. Mitchell asked for a vote about five miles versus one mile. The vote was split as to whether to reduce the distance to one mile or leave it at 5 miles, with a vote of 5-2. The distance will be reduced to one mile.

Mrs. Spencer stated that after research, the recommendation is to remove the last sentence of Section 5, which removes the language that bans the use of Cadmium Telluride. Mrs. Crawford stated that she feels the panels should be reviewed on a case-by-case basis. Mrs. Mitchell stated she was fine with removing the final Item j. Mrs. Ege stated she had a conversation with Becky Campbell from First Solar about the panels, and her opinion is that First

Solar does have a financial reason for promoting their panels, which do contain the Cadmium Telluride. Mrs. Ege stated the CdTe panels are thinner, and she feels there is still a lot we don't know and hopes that we can make decisions on a case-by-case basis. Mrs. Crawford stated she would prefer to take out Item j. Mrs. Spencer stated the Planning Commission could share its concerns with the Board of Supervisors. Mrs. Cooper stated that we had statements about national standards in the ordinance. The vote to remove Item j was 7-0, but we would continue to research how best to handle this type of material. In summary, the voting for changes to individual sections of the ordinance was as follows:

- Keep the 60-acre cap and the overall 1500-acre cap: (4-3)
- Change the side and rear setback: (7-0)
- DGA: keep the four bullet criteria: (7-0)
- Five mile versus one-mile distance between solar farms. Change to 1 mile instead of 5: (5-2)

Item j: remove language banning Cadmium Telluride: (7-0)

Mrs. Mitchell asked for a motion. Mr. Pendleton motioned to adopt (approve) the solar ordinance with the talking points discussed tonight. Second by Mr. Clements. The ordinance will be heard by the Board of Supervisors on March 15th. The voting was as follows:

AYES: Pendleton, Clements, McGhee, Doss, Ege, Crawford, Mitchell
NAYES: None
ABSENT: None
ABSTAIN: None

Union Hall Village Plan:

Union Hall Village Plan Work Session: Todd Gordon presented an update for the Union Hall Village Plan. He again explained the four transect zones. He also reviewed the zoning in Union Hall. Mr. Gordon presented the consultant's zoning recommendations. He stated the question is whether to add zones or keep zones. He explained that we currently have the R-E and the A-1 zoning in Union Hall. Existing business zoning districts currently have B-1 and PCD, which is very flexible. He stated that PCD can be a barrier to some business development. He explained that T-1 (Transect 1) allows for long-term farming and Agri-tourism, plus local markets for farmers. T-1 would allow for R-E and A-1, and perhaps the creation of a new agricultural district. T-2 would allow for R-E and A-1, or create a new agricultural district with a 10 acre minimum. T-3 -large residential allows for R-E and A-1 and the possible creation of a new rural district that allows small farming uses depending on lot size. T-4 is the traditional village development. Mr. Gordon stated the consultants believe the existing zoning does not meet the need. Transect 4 would consist of a mixed-use type rural village. We could use B-1 but expand and modernize. We could also use PCD and reduce minimum project size to an acre. Or, create a new village zone that allows for a traditional village district and design guidance. Mr. Gordon explained these are options for how existing zoning could accomplish the goals or allow for new districts. Mr. Gordon stated they are not scoped to rewrite the zoning districts. Their goal is to demonstrate options and only recommend zoning changes. The next steps include revisions based on planning commission input, a brief to the Board of Supervisors, finalize the recommendations and create a final report. Next month the consultants will speak to the Board of Supervisors to get their input and then finalize the report. Mrs. Mitchell thanked Mr. Gordon. Mrs. Cooper will send the Planning Commission members the consultant's presentation from this evening. Mrs. Cooper asked the commissioners to examine the zoning component because this component could be used in other areas of the county. Mrs. Crawford asked if zoning would only change if a landowner requested it. Mrs. Cooper clarified that we could rezone after adopting the new village comprehensive plan. The revised zoning must be in the code before a landowner could request a rezoning of their property. Mrs. Cooper stated the preference would be to have the Board of Supervisors look at the presentation before we post the presentation on the web. The consultants are scheduled to speak to the Board of Supervisors in March.

Chairwoman Mitchell announced the next item on the agenda as citizen comment and asked if there were any citizens present who would like to speak on any topic. Hearing none, Mrs. Mitchell motioned adjournment.

With no other business, the meeting was adjourned at 11:30 PM.

Mindy Goldsmith, Clerk
Franklin County Planning Commission

February 8, 2022
Date