

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



Aaron Church, County Manager
Carolyn Barger, Clerk to the Board
John W. Dees, II, County Attorney

Rowan County Board of Commissioners

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MINUTES OF THE MEETING OF THE ROWAN COUNTY BOARD OF COMMISSIONERS

August 16, 2021 – 6:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING

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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, Assistant County Manager/CIO Randy Cress and Finance Director James Howden were also present. County Attorney Jay Dees was absent with Attorney Anthony Fox of the Parker Poe Firm providing legal counsel.

Chairman Edds convened the meeting at 6:00 p.m.

Chaplain Michael Taylor provided the Invocation.

Chairman Edds led the Pledge of Allegiance.

Chairman Edds welcomed Attorney Anthony Fox of the Parker Poe Firm, who was filling in for County Attorney Jay Dees.

CONSIDER ADDITIONS TO THE AGENDA

- Chairman Edds requested to move agenda item #6 (Space Needs Study for Health Department) to the Consent Agenda as Item AE.
- Chairman Edds added a request to the Consent Agenda as Item AC to authorize the County Manager to pay premium pay to first responders who either are or may be in direct contact with a person who is infected with COVID-19 for an extended period of time. The employees and premium pay were defined in Attachment A.
- Chairman Edds added a request as Consent Agenda Item AD to approve the budget as presented in Attachments B1 and B2.

The Consent Agenda consisted of the following:

- A. Perkins First Amendment to Lease and Authorization for Repairs
- B. Proclamation Recognizing August 21-28, 2021 As Creek Week in Rowan County
- C. 120Water - Additional Pitcher Refill Cartridges for NEWS Customers
- D. Contract Between DSS and The Relatives, Inc.
- E. Contract Between DSS and Crossnore School and Childrens Home
- F. Contract Between DSS and Primary Care Solutions
- G. Bi-weekly Environmental Health Report
- H. Contract Between DSS and Children's Homes of Iredell County
- I. Contract Between DSS and Nazareth Child and Family Connection
- J. Contract Between DSS and R-Care, Inc.
- K. FY2021 Local Justice Assistance Grant Request to Apply
- L. Schedule Quasi-Judicial Hearing for SUP 02-21: Taylor Clay for September 7, 2021
- M. Use of J. Newton Cohen, Sr. Room
- N. Lisa's Hair Salon at West End Plaza - First Amendment to Lease
- O. FY22 Agreement NCDOT Statewide Capital Grant
- P. Request for Public Hearing FY23 Transit Grant Funding
- Q. Rowan Transit System FY22 Updates
- R. Martin Starnes Contract Modification
- S. Airport Layout Plan - Public Safety Hangar
- T. Contract Between Rowan County and State of NC Department of Agriculture and Consumer Studies
- U. Tax Refunds for Approval
- V. HOME Annual Agreement: Rowan County / City of Concord
- W. Schedule September 7, 2021 Public Hearing: FY 19-20 HOME Funding Increase
- X. Request to Post RFP for Project 25 (P25) Subscriber Units
- Y. Purchase of Equipment and Upfit for 18 Sheriff's Office Vehicles
- Z. FY21 Equitable Sharing Agreement and Certification
- AA. Home & Community Care Block Grant Contract For FY 2022
- AB. ARPA Budget Amendment
- AC. Addition to the Consent Agenda - Authorize the County Manager to pay premium pay to first responders who either are or may be in director contact with a person who is infected with COVID-19 for an extended period of time. The employees and premium pay were defined in Attachment A as follows:

Sheriff's Office

For the pay periods beginning 08/22/21 – 01/08/22, a per-pay-period amount of \$153.20 for FT employees and 10% for PT employees with the following job titles within the Sheriff's Office:

- CAPTAIN
- CHIEF DEPUTY
- DEPUTY
- DETECTIVE
- DETENTION LIEUTENANT
- DETENTION OFFICER
- DETENTION SERGEANT
- LIEUTENANT
- MAJOR
- MASTER DEPUTY
- MASTER DETENTION OFFICER

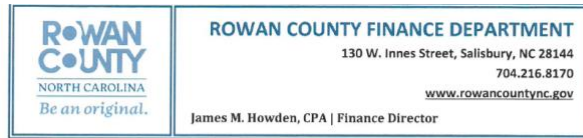
- SERGEANT
- SHERIFF

Emergency Medical Services

For the pay periods beginning 08/22/21 – 01/08/22, a per-pay-period amount of \$153.20 for FT employees and 10% for PT employees with the following job titles within the Emergency Medical Services division of Emergency Services:

- EMERGENCY MEDICAL SERVICES BATTALION CHIEF
- EMERGENCY MEDICAL SERVICES CAPTAIN
- EMERGENCY MEDICAL SERVICES LIEUTENANT
- EMT
- PARAMEDIC
- EMERGENCY SERVICES CHIEF
- EMERGENCY MEDICAL SERVICES DIVISION CHIEF
- EMERGENCY MANAGEMENT DIVISION CHIEF

AD. Addition to the Consent Agenda - Approve budget amendment as presented in Attachments B1 and B2. Attachment B1 was as follows:



Board of Commissioners

Please see attached budget amendment to use ARPA funds to cover overtime in the Sheriff's Department that will be used in controlling and fighting COVID-19 in the community and in the detention center.

Also, this budget amendment will use ARPA funds to cover premium pay for Sheriff and Emergency Services employees who are potentially exposed to COVID-19 based on the work they perform every day for the citizens of Rowan County.

Recommendation:

The Finance Department is recommending the Board of Commissioners approve the budget amendment allowing the use of ARPA funds for the fore mentioned purposes.

Attachment B2 was as follows:

ROWAN COUNTY

DEPARTMENTAL REQUEST FOR BUDGET ACTION

TO: COUNTY MANAGER / BOARD OF COMMISSIONERS

FROM: ES/SHERIFF/COUNTY MANAGER

EXPLANATION IN DETAIL:

Requesting the use of ARPA funds to cover overtime for the Sheriff's Department to help fight and control COVID 19 in the community and in the detention center and premium pay for Sheriff and Emergency Services employees potentially exposed to COVID 19 based on their daily work schedule.

Prepared by: JHOWDEN
Date: 8/16/2021

BUDGET INFORMATION:

ACCOUNT TITLE	R/E	ACCOUNT #	INCREASE	DECREASE
ARPA REIMBURSEMENT REVENUE	R	7344119-431300	780,200	
SALARY (PREMIUM PAY)	E	7354119-510005	350,000	
PART TIME (PREMIUM PAY)	E	7354119-510015	50,000	
OVERTIME (PATROL)	E	7354119-510010	100,000	
OVERTIME (DETENTION CENTER)	E	7354119-510010	100,000	
OVERTIME (COURT FACILITY)	E	7354119-510010	25,000	
MEDICARE	E	7354119-520010	9,070	
RETIREMENT	E	7354119-520015	67,750	
SOCIAL SECURITY	E	7354119-520030	38,750	
WORKER COMP	E	7354119-520025	14,300	
401(K)	E	7354119-520030	31,250	
			1,572,400	

DEPARTMENT HEAD	COUNTY MANAGER	ACCOUNTING USE ONLY
Approved: _____	Approved: _____	Period - Journal # _____
Disapproved: _____	Disapproved: _____	Keyed By: _____ JMH
Amended: _____	Amended: _____	Date Keyed: _____
Date: _____	Date: _____	Posted By: _____
Signature _____	Signature _____	Date Posted: _____

AE. Space Needs Study for Health Department (moved from the regular agenda (item #6) to the Consent Agenda.

2. SPECIAL RECOGNITION

Chairman Edds said Marine Private Henry Ellis had been killed in the line of duty in Korea but had been missing in action (MIA) since November 30, 1950. Private Ellis' remains had been identified and returned home and were to be interred August 23, 2021 in the Salisbury National Cemetery.

Chairman Edds said Representative Harry Warren and Senator Carl Ford had been working in the General Assembly to bring honor to Private Ellis' family.

Chairman Edds asked the Commissioners to join him as he stood to pay honor to one of Rowan County's finest as he read the Proclamation Honoring the Service and Memory of Marine Private Henry Ellis. Chairman Edds said the framed Proclamation would be presented to the family at the funeral.

The Proclamation was read as follows:

WHEREAS, throughout our history, the United States of America has been protected by patriots who risked their lives and served nobly to protect and preserve our independence, the principles of justice and our democracy; and

WHEREAS, Americans live in freedom because of the contributions, immeasurable sacrifices and unspeakable hardships of the brave sons and daughters of the United States Armed Forces who have courageously defended America; and

WHEREAS, Private Henry Ellis was born in Rowan County and became a member of the United States Marine Corps, heroically answering the call to serve our Great Nation; and

WHEREAS, on November 30, 1950 Private Ellis died in action at the age of 22, in Korea, defending a United States military convoy against a Chinese attack at Koto-ri during the Battle of the Chosin Reservoir; and

WHEREAS, after decades of being missing in action, Private Ellis' remains have finally come home to Rowan County where he will be laid to rest in the Salisbury National Cemetery on August 23, 2021.

NOW, THEREFORE, the Rowan County Board of Commissioners does hereby proclaim August 23, 2021 as a day to respectfully commemorate the bravery of Private Henry Ellis.

BE IT FURTHER PROCLAIMED that the Board encourages all citizens to show respect with grateful hearts to families who have lost loved ones during the call to defend and safeguard our freedoms and to show support to families who have loved ones who are still missing in action.

Commissioner Caskey moved, Commissioner Pierce seconded and the vote to approve the Proclamation as presented carried 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:

- Kenneth Hardin thanked the Commissioners for their service and support over the years. Mr. Hardin extended special appreciation to Commissioner Pierce for the times he had helped him with various endeavors.

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

4. PUBLIC HEARING: Z 0-21 REAPER'S REALM, LLC

Please note the minutes will only summarize the presentations and discussions for Z 02-21; however, full video and audio recordings are available via the Rowan County Website.

Planning Director Ed Muire presented the staff report for Z 05-21. Mr. Muire also provided a power point as he discussed the request from property owners Tony and Angela Jenkins.

According to the staff report, Reaper's Realm Haunted House, LLC (Reaper's Realm) had been a seasonal Halloween event that had been authorized through issuance of temporary use permits by the Commission in 2017 for a 2-year period and again in 2020 for 1-year only. In granting the 1-year permit, the Commission's directive advised the event needed to seek rezoning for continued future operations given it had been an annual occurrence, as opposed to temporary.

The property in question was located at 175 Shuffler Woods Road and further described as Tax Parcels 147-001 (portion); 147-006 (all); and 147-116 (portion). The total acreage requested for CBI (CD) rezoning was approximately 10.85 acres.

Mr. Muire reviewed the property characteristics, stating that the site consists of four (4) parcels totaling 18.31 acres and was situated between Old Linn Road (SR#1232) and Daugherty Road (SR#1243). Access was gained via a thirty-foot (30') easement known as Shuffler Woods Road which crossed Tax Parcel 147-045 (owned by Jeremy Blackwelder) to Daugherty Road. The site also had thirty-one feet (31') of frontage on Old Linn Rd but access was not currently improved.

The Coldwater Creek Watershed's (WS-IV-PA) impervious cover limitation of 36% will affect the site if the disturbed area of the project is one (1) acre or more. Likewise, the one-acre threshold will require submittal of a soil erosion and sedimentation control plan to manage the site. Impervious cover that exceeds 36% may be considered by the Board of Commissioners through the Special Non-Residential Intensity Allocation (SNIA) process.

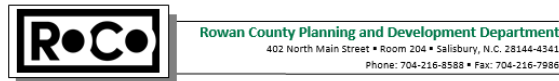
An unnamed perennial stream (aka "blue line") bisects the property flowing to the southwest and eventually joins Coldwater Creek paralleling the southbound lanes of I-85. No regulated floodplain is associated with this stream, but any disturbance or crossing will likely require 401/404 permits issued by NCDEQ and Army Corps of Engineers.

Records from the Rowan County Fire Marshal indicated the haunted trail had been inspected annually since 2013. Mr. Jenkins only acquired approval in 2017 after several years of operation as a non-compliant operation without building or zoning permits. To reiterate, Mr. Jenkins received a 1-year temporary use permit in 2020 and was advised to seek rezoning as the use was not “temporary”.

The current zoning was Rural Agricultural (RA) and the requested zoning was CBI (CD) Commercial, Business, Industrial-Conditional District. The applicant currently operated a lawn care service from the location and had requested said use (lawn and garden services), along with similar uses ornamental shrub and tree services and agricultural production livestock and animal specialties for consideration. While these uses are generally allowed in the current RA district, the CBI (CD) will only “permit” these uses if included in the new district.

The primary reason for the request was to obtain approval for the annual seasonal operation of events at Reaper’s Realm Haunted House and Trail, which was classified as an Amusement Service and only permitted in the County’s non-residential zoning districts (CBI, NB and IND).

Using the power point, Mr. Muire reviewed the site history starting back in 2013. It was noted that in 2014, the permit for a personal storage shed was revoked. In 2015, a structure was completed but not approved for occupancy; no other apparent structures were on the site. In 2017, the following Temporary Use Permit (TEMP 01-17) was issued:



TEMPORARY USE PERMIT [TEMP 01-17]

September 6, 2017

Mr. Tony Jenkins
175 Shuffler Woods Road
China Grove, NC 28023

Mr. Jenkins:

On September 5, 2017, the Rowan County Board of Commissioners approved your request for a temporary use permit [TEMP 01-17] to operate a haunted house and trail on your property located at 175 Shuffler Woods Road, China Grove, NC [Rowan County Tax Parcel 147-001]. Approval of TEMP 01-17 is subject to the six [6] conditions noted below and limits operation to the days, dates and times noted herein; violation of the permit terms or conditions may prompt revocation of the permit or subject you to civil penalties or other equitable remedies allowed by Section 21-14 of the Rowan County Zoning Ordinance.

Dates of Operation: Fridays and Saturdays, September 29 thru October 31, 2017
Fridays and Saturdays, September 28 thru October 31, 2018

Hours of Operation: 7:00 pm until midnight

- Permit Conditions:**
1. Obtain approval from NC DOT for a commercial driveway permit
 2. Obtain occupancy approval of the building related documents and permitting from Rowan County Building Inspections Department
 3. Obtain approval from the Rowan County Fire Marshal’s Office for all Fire Code related items
 4. Approval is for Fridays / Saturdays 7:00 pm until midnight from Sept. 29 – Oct. 31, 2017 and Sept. 28 – Oct 31, 2018 only
 5. No event parking is allowed on Shuffler Woods Road
 6. Provide certificate of liability insurance for the event and include Chris Shuffler as an Additional Insured to the extent permitted by your insurer.

Although issuance of a zoning permit may occur prior to satisfying all 6 permit conditions to allow initiation of the building and fire code plan review and permitting, be aware you must submit items 1, 2, 3 and 6 prior to operation of the event to be compliant with the permit terms and conditions.

In 2020, the following TEMP 01-20 was issued:



TEMPORARY USE PERMIT [TEMP 01-20]

October 21, 2020

Mr. Tony Jenkins
175 Shuffler Woods Road
China Grove, NC 28023

Mr. Jenkins:

On October 19, 2020, the Rowan County Board of Commissioners approved your request for a temporary use permit [TEMP 01-20] to operate a haunted house and trail on your property located at 175 Shuffler Woods Road, China Grove, NC [Rowan County Tax Parcel 147-001]. Approval of TEMP 01-20 is subject to the four [4] conditions noted below and limits operation to the days, dates and times noted herein; violation of the permit terms or conditions may prompt revocation of the permit or subject you to civil penalties or other equitable remedies allowed by Section 21-14 of the Rowan County Zoning Ordinance.

Dates of Operation: October 23, 24, 25, 29, 30 and 31
Hours of Operation: 5:00 pm until 9:00 pm for 10.25.20 and 10.29.20
5:00 pm until midnight for the other approved dates

Permit Conditions:

1. Have at least five (5) municipal or county law enforcement officers on-site during operating hours noted above
2. Close operations and have attendees off the premises by midnight
3. Approval is for the 2020 dates listed above only
4. Have an ambulance on-site for dates and hours of operation noted above

Although these permit conditions provide approval, be advised it is your responsibility to ensure these events and the facility complies with these conditions. Likewise, you should make obtaining building code compliance for the three (3) buildings erected without proper permitting a priority before continued operation.

This correspondence shall constitute an approved Temporary Use Permit for the dates listed herein. Please contact this office to discuss any permit changes or submittal of a future application well in advance of the intended event dates.

TEMP 01-20 Jenkins Approval

1

The site history 2020 conclusions were:

- Amusement and Recreation Services is not a permitted use in the RA zoning district
- Addition of structures without proper permitting is a public safety concern
- It was evident from Facebook postings that events are and have been occurring outside the scope of previous Temporary Use Permit authorization
- Inability to adequately manage parking on shoulders of Daugherty Road and neighboring properties is a concern
- Event has exceeded the notion of a “temporary use” as the Halloween attraction is an annual event and there are other seasonal events being promoted, such as St. Patrick’s Day, Valentine’s Day and other random events and dates
- Aerial photography verifies the applicant has intensified use of the property with building additions and attractions for public amusement/entertainment
- Future operation should seek rezoning of the property to an appropriate district designation

Continuing with the power point, Mr. Muire pointed out the site history for 2021 showed more trail and haunt related structures were evident since the 2020 temporary use application.

The property was located in both the I-85 South Corridor Land Use Plan (LUP) and Area Three of the East Rowan Land Use Plan (ELUP).

Commentary from the meeting participants in the I-85 South Corridor Plan desired “more separation of residential uses from business and industrial uses, ... (but) also support for increased connectivity to general services and more commercial and retail opportunities.” Overall, plan recommendations primarily focused on nodal development within the study corridor, especially centered around the proposed Old Beatty Ford Road interchange at I-85 and further acknowledged that properties within the corridor not to be served by public utilities should adhere to recommendations in the ELUP.

Future Land Use Recommendation D contained on page 28 in the ELUP stated “Proposals for expansion of existing businesses that minimize conflict with surrounding residential uses and recognized historic properties through design standards or impact mitigation techniques are encouraged in the Planning Area.” Future Land Use Recommendation A for Home Based Business (located on same parcel as residence) found on page 29 of the ELUP suggest, “Businesses should be sited to the rear of the home with lighting that is building mounted and focuses downwards, adjoining residential uses should have visual separation provided by the business. The size of accessory structures associated with the business operation may also be limited.”

Conditional districts are intended for proposals that may not be suitable for a general rezoning but due to voluntary or agreed upon limitations that “address anticipated impacts” upon neighboring properties and the surrounding area, the request may be appropriate.

Mr. Muire provided the following Zoning Analysis –Purpose and Intent:

- CDs are intended for proposals that may not be suitable for a general rezoning, but due to voluntary or agreed upon limitations that “address anticipated impacts” upon neighboring properties and the surrounding area, the request may be appropriate
- Applicant has proposed limiting development to four (4) specific uses:
 - SIC 02 Agricultural livestock production;
 - SIC 0782 Lawn and Garden Services;
 - SIC 0783 Ornamental Shrub and Tree Services;
 - SIC 7999 Amusement and Recreational Services, i.e. “Haunted House and Trail”

Zoning Analysis –Compatibility of Uses

LAND USE	CBI (CD)	RA
Livestock production	Requested	Permitted
Lawn and garden	Requested	SR*
Ornamental Shrub & Tree	Requested	SR*
Amusement services	Requested	No

* Limits commercial building size to 2,000 sq ft if state road frontage is less than 35’

ZONING ANALYSIS –Compatibility of Uses

Proposed Conditions

- Tax Map 147 Parcels 001 (majority); 004 (portion); 006 (all); and 116 (portion); split zoned parcels
- Requested Uses –Agricultural & Livestock Production; Lawn & Garden Services; Ornamental Shrub & Tree Services; and Amusement & Recreational Services, i.e. Haunted House and Trail
- Seasonal Operational

SEASON	DURATION
Valentine's Day	4 days
St. Patrick's Day	2 days
Halloween	20 days
Christmas	4 days

DAYS	HOURS
Sunday thru Thursday	6:30 pm – 10:00 pm
Friday thru Saturday	6:30 pm – 12:30 am

Proposed conditions:

- Limitation of maximum 1200 patrons daily
- Access and Circulation plans –Proposed Access from Old Linn Rd and Exit onto Daugherty Rd
- NCDOT Commercial driveway permit conditionally approved
- Parking @ 1 space per 400 sq ft operational area
- Noise –Decibel based standard of 70 dB from 7am –11pm and 65 dB from 11pm –7am
- Insurance –General Commercial Liability at 1 million per occurrence, etc
- Screening and Buffering –Applicable to structures / properties within 200' of operations
- Emergency Operations plan
- Sanitation –6 porta-johns; 2 sinks and trash disposal
- Security –5 private security and 5 deputies

Mr. Muire used the power point as he discussed the zoning for the site in question and the surrounding area.

Staff Recommendations:

1. Require the proposed internal road and deeded right-of-way (Shuffler Woods Road) be constructed to the 20' and 24' widths shown on Proposed Site Plan Sheet 1 and provide certification from an NC registered professional engineer that said road will support emergency vehicles utilized by Bostian Heights Fire Department.

2. Provide a maintenance certification / agreement with the Fire Marshal stipulating the internal road and Shuffler Woods Road will be maintained to a standard allowing their use and access.
3. Require all parking and overflow parking areas depicted on Proposed Site Plan Sheet 1 be improved with a minimum six-inch thick compacted gravel.
4. Update site plans to depict buildings / structures added since 2018 aerial photography and have them inspected or certified as code compliant for the type occupancy of this venue.
5. Screening along the northwest property line depicted on site plans should (at a minimum) have the evergreens adjacent to the adjoining property lines placed not more than five feet apart and be at least six feet tall at time of planning. The inner plantings within the remainder of the buffer should consist of and adhere to Section 21-215(1)b(1) or (3) at the option of the applicant. Likewise, screening should be provided along the Poston property as well.
6. Provide decibel modeling that accounts for all site operations (vehicle noise, chain saws, loud speakers, screams, etc.) prepared by an acoustical consultant and incorporate any site improvements / modifications as a recommendation by said consultant.
7. Obtain a collective approval or satisfaction from the agencies utilizing the Command Post prior to obtaining building and related permits for its construction.

With regards to deliberations by the Commission, Mr. Muire pointed out the following:

- Recommended conditions or changes must be consented to by the applicant.
- Conditions should address conformity with plans or ordinances and focus on impacts reasonably expected from the site.
- Does the proposed change advance the public health, safety or welfare, as well as spirit and intent of the ordinance?
- Consider the impact of the zoning change on the general public and not the advantages or disadvantages to the public.
- Consistency and Reasonableness may be combined into one statement.

The Planning Board met on July 26, 2021 and recommended denial of the Z 05-21 request. The Planning Board Statement of Reasonableness and Consistency was: "Z 05-21 is not consistent with the East Rowan Land Use Plan based on the following: It is an expansion of business that would conflict with surrounding residential uses and the proposed use would be a benefit to the owner at the expense of neighbors or community in regards to noise and traffic."

Throughout Mr. Muire's presentation the Commissioners asked questions about the rezoning application, including, but not limited to:

- Commissioner Klusman inquired as to where the County drew the line for having permanent toilet facilities for what she basically viewed as an events center. Commissioner Klusman felt the topic fell under the Health Department and the State for consideration.

- Commissioner Greene asked if the plan was completed for the entrance from Old Linn Road and the exit onto Daugherty Road. Mr. Muire said no and stated the applicant wanted to determine if the request would be approved before going to the expense of putting in the road. Mr. Muire said he had advised Mr. Jenkins not to start work until he knew he had the Board's approval.
- Chairman Edds referred to site history/aerial maps for 2014 and 2015 in the power point. Chairman Edds asked if the County had worked with the applicant after the stop work order was issued. Mr. Muire said he did not think so and it was his assumption the work was completed and afterwards the engineer, or someone, provided documentation to satisfy the code. Chairman Edds responded the Board needed to address whether the work actually stopped.
- Chairman Edds asked if the applicant went through the permitting process in 2017 and Mr. Muire said no. Mr. Muire commented that the applicant may have gotten the engineer's approval after the fact.
- Chairman Edds asked if the three (3) new buildings for 2020 had been permitted and Mr. Muire said no.
- Chairman Edds inquired as to the first time the Reaper's Realm matter had come to the Board and Mr. Muire said in 2017. At that time the operation was granted a 2-year permit for 2017 and 2018. Chairman Edds said the Board did not see Mr. Jenkins in 2019 (no application or request was submitted) and the Board only saw Mr. Jenkins in 2020 because of the negative publicity (shooting) that occurred at the venue.
- In response to an inquiry from Commissioner Greene, Mr. Muire said farm structures in an RA district were not required to be permitted.
- Commissioner Caskey asked if there were any buildings on the property that would be found in code violation in order to be occupied and Mr. Muire said he was not sure but maybe. Mr. Muire deferred to Mr. Jenkins engineer, Jamey Basinger, to answer the question. Mr. Muire said any structure that was part of the haunted trail needed to be up to code.

Mr. Fox said certain conditions had been suggested in the event the Board did grant the rezoning. Mr. Fox continued by saying the hearing was for a conditional zoning and if Board approved the request it would create its own district for the use and a site plan was integral to the process.

Mr. Fox then asked Mr. Muire if the site plan, as shown, satisfied the requirements because he felt it appeared to be lacking where certain uses would take place. Mr. Fox said the use and how it operated were a component of the application. Mr. Muire responded no and said he knew the applicant would probably be presenting another site plan tonight.

Albert Benshoff of The Brough Law Firm PLLC was present to represent Mr. and Mrs. Jenkins. Mr. Benshoff provided the Board with a handout and provided a power point as he reviewed the information contained in the handout. Mr. Benshoff said the first tab in the handout was the power point he planned to show; the second was the

Environmental Noise Monitoring Survey prepared by The EI group, Inc.; the third tab contained the original plans submitted with the application and showed the buildings only open to the public; the fourth tab showed the site plans made after his consultation with Mr. Muire after he asked to see all the buildings. Mr. Benshoff said not all of the buildings were open to the public for Reaper's Realm (referred to as RR in the handout and power point). According to Mr. Benshoff some of the buildings were for storage, scenery, etc. Mr. Benshoff said he could work out with Mr. Muire the uses for each building. Mr. Benshoff stated the buildings shown on the site plan behind tab three were the most buildings RR would have. In other words, Mr. Benshoff said the application was for the most of what RR will grow into in the future.

Mr. Benshoff said RR had been in business for eight (8) years and the Jenkins wished to operate a new and different RR and to follow all County rules and conditions. The Jenkins were not asking to return to the status quo and did not want to have another shooting incident as had happened in 2020. The Board was asked to evaluate the proposed conditions to see if they were adequate to reduce the impacts on the neighbors.

Mr. Benshoff highlighted an excerpt from the October 19, 2020 Board of Commissioners minutes when a Temporary Use Permit was sought by the Jenkins for RR.

Mr. Benshoff turned the presentation over the Jamey Basinger, P.E., Project Engineer, to discuss the concern for an additional entrance to RR for emergencies. Using the power point, Mr. Basinger said Mr. Jenkins had reached out to the North Carolina Department of Transportation (DOT) and the DOT preliminarily confirmed Mr. Jenkins could put an entrance to RR off Old Linn Road. Mr. Basinger discussed the size of the road, as well as the proposed turnaround. The proposal would enable cars to turnaround and leave the property once the maximum occupancy for the event was reached. Mr. Basinger said the DOT did not have traffic counts at this time for Old Linn Road. Mr. Basinger pointed out the one-way road that would run through the property to several parking areas. Mr. Basinger also pointed out the existing Shuffler Woods Road, which had an easement across the property and came out at Daugherty Road.

Mr. Basinger said there was a creek running through the property. If the rezoning was approved by the Commissioners, the Army Corps of Engineers would be contacted, as well as the Department of Water Quality, to ensure any changes along the creek were approved before the work was done.

Using the power point, Mr. Benshoff showed the first version of the site plan with the buildings that would be open to the public. Mr. Benshoff noted the plan being shown "was four (4) versions ago."

Mr. Basinger said he was the engineer for RR in 2017 for the haunted house. Mr. Basinger said no work had been done on the building for quite some time and while he could not say for how long, he could see the floor joists, etc. when he arrived. Mr.

Basinger said he had gone to the Rowan County Building Inspections Office with an extensive plan and changed what was required to meet code. Mr. Basinger discussed improvements that were made to the haunted house and reported the house did receive a Certificate of Occupancy (CO).

For the Board's knowledge, Mr. Basinger added that when he initially arrived, the house looked like an abandoned building but from a construction detail he could see that someone had stopped working on the building at least a year or two (2) prior.

Mr. Basinger continued by saying late in 2019 or early in 2020, Mr. Jenkins called him about the asylum and slaughter houses at RR. Mr. Basinger said the two (2) structures were erected and he had been called in to create plans similar to what he had done for the haunted house. Mr. Basinger said he had created the plans and worked to make sure the buildings were structurally sound and had the electrical requirements needed. Mr. Basinger said the plans were submitted for the two (2) buildings and had gone through plan review. Mr. Basinger said before anything else was finished, Mr. Jenkins wanted to see if the rezoning request was approved.

Commissioner Klusman referred to a Stop Work Order that had previously been issued for RR. Commissioner Klusman asked Mr. Basinger if RR had all the required CO's when he arrived at the site. Mr. Basinger responded no and said that was why he had been contacted. Using the power point, Mr. Basinger described the buildings on the site plan and said the buildings had been erected prior to him arriving to the site. Mr. Basinger said he had been brought in to bring the buildings up to code.

Mr. Benshoff noted the minutes from 2020 showed the Board had concerns with the noise from RR. Mr. Benshoff discussed the revised conditions and hours for operations.

Mr. Lars Aamo with EI Group, Inc. (EI) discussed at length the Environmental Noise Monitoring Survey conducted by EI (Tab #2 of the handout). Using the power point, Mr. Aamo pointed out the buildings where the noise testing occurred, as well as the noise level results.

Chairman Edds asked at any one time, how many people were expected to be present at the event. Mr. Benshoff responded approximately 240-260 people per hour depending on demand and the number of patrons attending.

Chairman Edds then asked if the noise study could replicate the screams of 240 terrified people, in addition to their vehicles coming in/out of the site? Mr. Aamo responded no and said the study was a "best case simulation."

Commissioner Greene pointed out the screams would come from different locations.

Commissioner Pierce questioned the proximity of the closest residents. Mr. Benshoff said the closest residences were the Mitchell's, Montanez's and Campbell's.

For the sake of the Board, Mr. Fox noted the sound study was done on a site plan that was different than what was being shown and the road configuration had changed, as well. Mr. Fox asked if the plan being shown was the plan that would be complied with.

Mr. Benshoff responded that the plan being shown on the screen was the first edition of the site plan and the buildings shown on this plan were all the buildings that would be open to the public. Mr. Benshoff said the road was a bit different. The final version of the site plan was included in the handout behind tab 4.

Mr. Aamoth continued highlighting the sound study conclusions, which were behind tab 1 in the handout.

Commissioner Greene asked where the chainsaw readings were taken. Mr. Aamoth said he took the readings from the property line while Mr. Jenkins operated the chainsaw from a location near the slaughterhouse. Mr. Aamoth said one could hear the chainsaw and the screams but it was “not that loud from a decibel standpoint.”

Mr. Aamoth felt that based on the noise study estimations RR should be in compliance with the ordinance.

Mr. Jenkins was asked by Mr. Benshoff to describe the Vortex Tunnel, which he said was located inside the main haunted house.

Using the site map, Mr. Benshoff said condition #5 was accepted with regards to the buffer.

Mr. Benshoff discussed the Planning Board meeting and whether the neighbors agreed with the proposal. Mr. Benshoff noted the Campell's and Mitchell's were revoking their names on the petition that had been circulated in opposition to the rezoning for RR.

Mr. Benshoff discussed the zoning for the areas on the site plan. There was a small tract to remain zoned as RA and Commissioner Klusman questioned the number of acres for tract. Mr. Basinger was not sure of the exact acreage but explained the whole reason for the CBI district was to contain just the operations of the haunted house.

Mr. Muire said moving lines or district boundaries was more advantageous for Mr. Jenkins.

In response to Commissioner Klusman's inquiry pertaining to the area proposed to remain RA, Mr. Basinger said any structure within an RA district was required to be permitted, unless it was a pole barn. Commissioner Klusman responded by asking why Mr. Jenkins did not get permits for any of the other buildings. Mr. Basinger said he could not answer the question.

Commissioner Klusman asked Mr. Jenkins why he did not obtain permits before erecting the buildings. Mr. Jenkins said the permit for the main haunted house was revoked a day or two (2) before RR was to open that particular year. The roof was on the house and the building was structurally up before the permit was revoked. Mr. Jenkins said the buildings on the trail had been taken down from elsewhere and the pole buildings were put back up on his property; they were not new buildings and he did not get permits for them. Mr. Jenkins said there was a gray line between pole buildings and agricultural buildings being allowed on farms.

Commissioner Klusman asked what year the buildings were re-erected on his property and Mr. Jenkins said 2019. When asked, Mr. Jenkins confirmed to Commissioner Klusman that he had the buildings re-erected on his property after the stop worker order had been issued in 2017.

Mr. Benshoff reported that the County had Mr. Jenkins attention and the County had made it clear that Mr. Jenkins was not to proceed without proper permits or approvals. Mr. Benshoff asked the Board not to punish Mr. Jenkins for past errors. Mr. Benshoff said the application before the Board was a new application.

Mr. Benshoff said there was a split opinion from the neighbors about whether the rezoning was okay. Mr. Benshoff said there was also a text in the handout, page 23, from Mr. Jake Davis who may speak later in the hearing.

Mr. Benshoff provided the Board members (copies were not provided to the Clerk) with a copy of a text from neighbors Joe and Donna Zanolini of 1340 Daugherty Road, who said RR had never been a nuisance or a bother to them.

Mr. Benshoff referred to conditions placed on the Temporary Use Permit issued in 2020 and reviewed the power point slides as follows:

1. There must be 5 County or municipal Law Enforcement Officers (LEO) on site during operations. OFFERED AS A CONDITION OF THE ZONING REQUEST.
2. RR must be shut down and people gone by midnight. OFFERED AS A CONDITION OF THE REZONING REQUEST EXCEPT FOR 12:30 FRIDAY AND SATURDAY.
 - Sundays through Thursdays from 6:30 pm to 10:00 pm. No admission tickets will be sold after 9:00 pm.
 - Fridays and Saturdays from 6:30 pm to 12:30 am. No admission tickets will be sold after 11:00 pm.
 - It takes the average customer about one hour to complete RR.
3. EMS must be on site. ROWAN RESCUE SQUAD OFFERED A CONTRACT. JENKINS ACCEPTED.

Commissioner Caskey referred to the 5 deputies and 5 security officers that were proposed for each time RR was open. Mr. Benshoff said 3 of each were proposed for the other events, St. Patrick's Day and Valentine's Day, because of lower attendance.

Commissioner Caskey asked if Mr. Jenkins would not open in the event only 4 deputies showed up. Mr. Jenkins said RR was at the mercy of the Sheriff's Department as he could not reach out to the municipal officers until Sheriff Auten provided the okay.

Commissioner Caskey asked if the Sheriff had extended approval for next year and Mr. Jenkins said the approval was for 2020 and he did not know if the approval would continue or carry on.

Commissioner Caskey asked Mr. Jenkins what he would do if he did not have 5 deputies and enough off-duty officers in the future. Mr. Jenkins said he could not say he would close if he was not told until the day of. Mr. Jenkins said he would be glad to put private security on if it would be acceptable.

Commissioner Klusman asked if she was hearing Mr. Jenkins correctly that RR would not close if there were not enough officers. After conferring with Mr. Benshoff, Mr. Jenkins said if the requirement was a condition in order for RR to be open, then RR had no way to be open.

Mr. Benshoff mentioned the new traffic pattern. Based on the historical record there were approximately 3.5 customers per car. An aspirational goal was a maximum daily number of customers is 1,200; or 343 cars on the busiest night. Mr. Benshoff said the 343 cars equated to 46 to 69 cars per hour.

Mr. Benshoff discussed new measures to reduce traffic and said the Jenkins planned to add a new parking fee, and higher ticket prices. Other measures to be implemented were not to allow drop-offs, all ticket sales would be on site and not online. Cars would be counted when they came in and the gate would close at the turnaround when capacity was reached.

Mr. Basinger came forward to elaborate on the traffic proposal for the venue. Using the power point, the following information was reviewed:

Traffic will not queue on Old Linn Rd.

- See Site Plan 4 – Jamey Basinger, PE
- 94 cars in queue before checkpoint "B"
- 50 cars in queue before exit "F"
- 297 cars in parking lots. SR says "467 gross spaces"

Commissioner Klusman expressed concern with minors coming in and Mr. Benshoff said identifications would be checked on the way in. Mr. Jenkins added that the identification for each individual in the car would be checked and there must be a responsible adult in the car who was 18.

Mr. Benshoff continued with the power point showing the following information:

- When capacity reached gate closed AT “G” after turn around.
Cars will not queue on Old Linn Road.
- CONCLUSION: There is enough capacity to hold 343 cars on site on the absolute busiest nights.

Compare New Reaper’s Realm to Alternate Hypothetical Development

- At the RA use by right of SINGLE FAMILY RESIDENTIAL 17 acres.
- 17 Acres at 2 units per acre = 33 HOUSES.
- FHWA says around 8 trips per day per house OR 264 TRIPS PER DAY EVERY DAY OF THE YEAR vs 343 CUSTOMER CARS + 75 STAFF & SECURITY CARS = 418 CARS on the busiest days.

OPEN 30 DAYS A YEAR

No more than 20 days at Halloween. 15 in 2021.

No more than 2 days at St. Patrick’s Day

No more than 4 days at St. Valentine’s Day

A Christmas season of no more than 4 days. None in 2021.

NAME of SEASON	NUMBER of DAYS	LAST DAY of SEASON
St. Valentine’s Day	4	Sunday closest to the Holiday Sun. Feb. 13, 2022.
*St. Patrick’s Day	2	Sunday closest to the Holiday Sunday March 20, 2022.
Halloween	20	Sunday closest to the Holiday. October 31, 2021
Christmas	4	Before December 24

*If St. Patrick’s Day falls on a Wednesday, the last day will be the Sunday following the holiday.

Chairman Edds asked if the Valentine’s and St. Patrick’s Day events were for a haunted house. Mr. Benshoff said there had been a haunted house at the venue in the past on St. Patrick’s Day. Mr. Jenkins added that only the main haunted house would be open and not the trails.

PROPOSED HOURS

- Sundays through Thursdays from 6:30 PM to 10:00 PM. No admission tickets will be sold after 9:00 PM or capacity reached.
- Fridays and Saturdays from 6:30 PM to 12:30 AM. No admission tickets will be sold after 11:00 PM or capacity reached.

Security & Emergencies:

- 5 Deputies and 5 Security Guards for Halloween, 3 of each for other seasons

- Security Command Post at Haunted House
- Contract with Rowan Rescue (see page 51)
- Emergency vehicles will enter through Shuffler Woods Rd.
- Annual Fire Marshall / Bostian Heights VFD Inspections
- See Site Plan Sheet 2 for location of security personnel
- Evacuation Plan. See application page 17
- Lighting – 5 large lights (400 W halide) on buildings and towers illuminate parking lots

Mr. Benshoff said all of Staff's recommended conditions were accepted by the Jenkins; however, he noted recommendation #7 was not within the applicant's control.

STAFF RECOMMENDED CONDITIONS Page 6:

- 1) New roads 20' to 24' wide as shown on site plan and certified by a NC PE – ACCEPTED
- 2) Provide a maintenance certification w/ Fire Marshal re roads – ACCEPTED
- 3) Min. 6" of gravel on parking lots – ACCEPTED
- 4) Show all buildings on site plans – ACCEPTED, DONE All buildings used for haunted house and trail are shown plus other buildings and neighbor's houses.
- 5) Stipulates buffer plantings – ACCEPTED
- 6) Proved sound modeling – ACCEPTED. DONE. See attached report from E.I.
- 7) Obtain collective approval of command post – OFFERED, Not in applicants' control

Continuing with the power point, Mr. Benshoff reviewed the agreement with Rowan Rescue, and the Fire Plan, Evacuation Plan, and Sanitation Plan.

Commissioner Klusman asked if the venue would be rented out for private parties. Mr. Jenkins said private parties were not allowed and he was only asking for 30 days per year for events.

Commissioner Klusman questioned the lighting at the venue and Mr. Jenkins said all trails were lit so that people could see the trail they were supposed to be walking on.

Mr. Benshoff discussed the East Rowan Land Use Plan (ERLUP). Mr. Benshoff said the Board was required to adopt a Reasonableness Statement and the Reasonableness Statement in the County's Ordinance was a version of the State statute, which said the Board could look at five (5) factors:

“Reasonableness statement” required by GS § 160D-605

This statement of reasonableness may consider, among other factors,

- The size, physical conditions, and other attributes of the area proposed to be rezoned,
- The benefits and detriments to the landowners, the neighbors, and the surrounding community,

- The relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
- Why the action taken is in the public interest; and
- Any changed conditions warranting the amendment.

Using the power point, Mr. Benshoff reviewed the above Reasonableness considerations as follows:

SIZE:

The size of the tract being rezoned vs the size of the surrounding area. Rule of thumb: the smaller to tract to be rezoned the more likely it is spot zoning.

Reaper’s Realm

- Is 4 parcels. House on one parcel. Shuffler Woods Rd on a 5th parcel;
- Haunted house and trail is in the center of Jenkin’s property;
- Type “A” 25-foot buffer along the four northwestern neighbors;
- Setback provided.
- Lighting Plan: Lighting – 5 large lights (400 W halide) on buildings and towers illuminate parking lots

Mr. Benshoff advised the Board was supposed to balance the benefits and detriments, which he highlighted:

- “Who benefits? Who is harmed? Will one party be seriously harmed and the other benefitted?”
- “The Courts may be sympathetic to a rezoning that confers considerable benefit to the owner and only modest harm to others. But even a substantial benefit for the owner will not offset substantial harm to others.” Land Use Law in NC p. 201
- Issue is whether the Owners have done enough to reduce the harm to the neighbors.

Mr. Benshoff said the Planning Board had looked at the issue as one of, “Is there a benefit to the owner at the expense of the neighbors or community.” Mr. Benshoff felt the Planning Board had considered the matter as an “absolute” that if there was any detriment to the community at all, it could not be approved. Mr. Benshoff submitted the view was not the intent of the statute or the test in the Ordinance. Slide 63 of the power point noted that any change in land use will create some change to the community and benefit the owner. Mr. Benshoff said it appeared when the Planning Board got to this point in its meeting, the issue turned into a referendum on how RR was, or might have been run in years past. Mr. Benshoff said the matter before the Board was a new application.

Commissioner Klusman said RR was well-known and she felt if an adjacent property owner wished to sell their home, RR could be a detriment to getting the full value. Mr.

Benshoff responded that a reduction of property value was not acceptable in evidence before the County's Board of Adjustment, unless presented by an appraiser. Mr. Benshoff said there was no evidence that was the case and people had continued to move into the neighborhood and adjacent to RR.

Mr. Fox responded to Mr. Benshoff that the Board of Commissioners were in a conditional zoning setting, which was a legislative process. Mr. Fox said the standard for the Board in reviewing anything in a legislative rezoning that related to the promotion of public health, safety and welfare was fair game for the Commissioners to consider in the approval or denial of the application.

The next slides in the power point were:

Why is an action to approve in the public interest?

Allows a small family owned and operated business to continue with binding conditions to reduce impacts on the neighbors.

Any changed conditions warranting the amendment?

Mr. Benshoff noted Staff and the Commissioners said it could not consider this change as temporary and requested the change to a permanent seasonal use.

At this point, Mr. Benshoff asked Mr. Jenkins to provide a copy of a petition in support of RR. The copy was provided to the Clerk to the Board to keep with the record. According to Mr. Jenkins, the online petition had 2140 signatures and was still up on the RR Facebook page. Mr. Jenkins said RR had been operating for ten (10) years and wanted everyone, including the neighbors, to feel safe with the new plans.

Commissioner Klusman asked how many of the signatures on the petition came from adjacent neighbors and property owners. Mr. Jenkins specifically mentioned Justin Campbell and Wayne Mitchell as having submitted letters of support.

Mr. Benshoff said there was not enough time to allow everyone present to speak and he asked those in support of the RR rezoning petition to please stand. A large number stood in support; however, no headcount was taken.

Mr. Fox noted the Clerk to the Board had received a question via the virtual platform asking what safeguards were in place to make sure those under the influence did not leave the site and wander onto neighboring properties. Mr. Jenkins said the previous year an individual had arrived inebriated and the condition was not known until the individual got out of the car. Mr. Jenkins said the individual was returned to his car by the deputy and made to sit for almost 2 hours. The deputy, who was from another county, made it clear the individual was not to leave. Mr. Jenkins said this was the only such incident last year.

Mr. Benshoff asked for the opportunity for a rebuttal, if needed.

Chairman Edds called for a brief recess at 8:31 p.m.

Chairman Edds reconvened the meeting at 8:40 p.m.

Chairman Edds said the Board was now ready to conduct the public hearing. Chairman Edds said everyone would be granted the opportunity to speak and he asked that everyone conduct themselves in a respectful manner. Chairman Edds asked everyone to refrain from clapping during the public hearing.

Mr. Fox suggested the Board alternate receiving comments between those for the applicant and those who were opposed. Mr. Fox said rotating back and forth would provide equal numbers in the event the Board ran out of time.

Before the first speaker came forward, Commissioner Klusman asked to hear from the public safety members who were present. Commissioner Klusman asked questions of Fire Marshal Deborah Horne and Bostian Heights Fire Chief Mike Zimmerman.

Commissioner Klusman stressed that her biggest concern was health and safety. Commissioner Klusman said she had not checked the road requirements for emergency vehicles coming into the site. Ms. Horne said Mr. Jenkins had agreed to a 20' road throughout RR. Ms. Horne said she had spoken with Mr. Jenkins and his attorney to let them know an agreement would have to be signed for the road to be checked annually by the Fire Marshal's Office and also the road would have to be maintained to accommodate 75,000 pounds. Ms. Horne said Mr. Basinger was also aware of the roadway requirements.

From a safety perspective, Commissioner Klusman asked if there was adequate space at RR for a number of emergency vehicles to get in/out of the site in the event of another shooting incident in the parking lot. Ms. Horne said while anything could happen, the plan called for emergency vehicles to only come in on Daugherty Road. Mr. Zimmerman added that the concerns expressed several months ago by the fire department pertained to coming in via Daugherty Road while other vehicles might be coming out. The biggest concern was to make sure the emergency vehicles could get in.

Commissioner Klusman asked if there were any other concerns. Ms. Horne said there had been issues in the past; however, Mr. Jenkins had done all that had been asked by emergency personnel.

Commissioner Greene asked Mr. Zimmerman if the fire trucks/emergency personnel could have gotten into RR during the shooting that took place last year. Mr. Zimmerman said no.

Ms. Horne asked Mr. Jenkins if she would be correct in saying that in the new plan people could exit out of Old Linn Road so that emergency vehicles could come in. Mr.

Jenkins confirmed the traffic could be turned around and people could exit out of the entrance.

Commissioner Klusman questioned Mr. Jenkins about the water level of the creek and whether the water came over the banks. Mr. Jenkins responded no and he described the creek as “bone dry” until the recent rains occurred. Commissioner Klusman asked how full the creek was and Mr. Jenkins said the creek was 8’ wide and at the crossing the creek was only 1 to 2 feet high on his property. Mr. Jenkins said there was a culvert where the trail exits.

Chairman Edds opened the floor to receive citizen input and the following individuals came forward.

1. Anne Deyton, a resident of Old Linn Road, presented a petition signed by 156 people that covered 100 properties. Ms. Deyton and the property owners were opposed to the application.
2. Michael Coffey said he and his wife Angela resided at 1464 Circle Drive spoke in support of the application.
3. Teresa Patterson Sloop, an adjoining property owner to RR, spoke in opposition to the application.
4. Jacob Davis of 1445 Old Pine Ridge Road said he was neutral with his opinion on the application. Mr. Davis said he signed a petition against the rezoning; however, he wanted to remove his name and that of his wife.
5. Kathryn McElhannon (no address provided) spoke in support of the application.
6. Felicia Robinson of 745 Old Linn Road spoke in opposition to the application.
7. Pastor Susette Westmoreland spoke in support of the application.
8. Taylor Deyton of 390 Old Linn Road spoke in opposition to the application.
9. Chelsea Price said she was not a neighbor but a client of RR and she spoke in support of the application.
10. Doug Bumgarner of 815 Old Linn Road spoke in opposition to the application
11. Brandy Nelson of Enochville Avenue spoke in support of the application.
12. Tammy Edgington of Sellers Court spoke in opposition to the application.
13. Dena Mills (no address provided) spoke in support of the application.
14. Karen Bumgarner of 815 Old Linn Road spoke in opposition to the application.
15. Brandon Bolick (no address provided) spoke in support of the application.
16. Stephen Shuffler of 745 Old Linn Road expressed concerns with the new entrance to RR and the visibility/safety issue associated with its location.
17. Madison Fuller, a customer of RR (no address provided), spoke in support of the application.
18. Travis Watson, a customer of RR (no address provided), spoke in support of the application.
19. Casey Coffey (no address provided) spoke in support of the application.
20. Blake Garrett (remote participant; no address provided) spoke in support of the application.

21. Jessika Helms (remote participant) of 270 Green Acres Place spoke in opposition to the application.
22. Terry Daughtry (remote participant) of 825 Old Linn Road spoke in opposition to the application. Chairman Edds responded to an inquiry from Mr. Daughtry that the Board was not aware of any alcohol permits that had been sought for RR. Commissioner Pierce added that the Alcohol Beverage Commission (ABC) would handle requests for permits to serve alcohol.

Mr. Fox noted there were comments via the remote Chat feature and he suggested that someone summarize the comments.

April Everette with the County's Information Technology Department summarized the Chat comments as follows:

23. Participant noted they had called 911 to have an inebriated person removed from their property
24. Participants questioned what happens when the parking lots are full and those individuals drive around the back roads and end up tearing up yards, urinating in bushes, etc.
25. Participant resides on Daugherty Road and indicated last year during the month of October they had an incident every weekend RR was open
26. Participant noted RR might have a family atmosphere while at work but said RR was not promoting that atmosphere for the community
27. Participant had safety concerns
28. Participant would be glad to share photos and videos of 2020 season

The last speaker during the public hearing came to the podium to address the Board:

29. George Bradshaw, Pastor of Pine Ridge Baptist Church located at 880 Old Linn Road, spoke in opposition to the application.

With no one else wishing to address the Board, Chairman Edds closed the public hearing.

Mr. Benshoff was allowed to provide rebuttals to comments that had been made. Mr. Benshoff stated the proposal before the Board presented a known quantity and would not grow any bigger; it was a finite proposal. Mr. Benshoff said there were no unpermitted buildings open to the public. Mr. Benshoff pointed out Old Linn Road was a DOT road and the DOT approved the driveway permit with conditions for Mr. Jenkins. Mr. Benshoff said Mr. Muire had calculated the parking lots at RR could hold approximately 400 cars and Mr. Bassinger said the queuing length of the roads was estimated at 144 car lengths. Mr. Benshoff said even if 1200 people came they would not need to park on the street and could not walk in anyway. The proposal was for the business to be open 13 days in October and there would be no cannon in 2021 or 2022. There would be no alcohol sold as Mr. Muire had made it very clear if alcohol was to be

sold it would have to be a condition for approval. Mr. Benshoff said the Jenkins were not asking for any alcohol sales and had never applied for any ABC permits. With regards to the conditions, Mr. Benshoff proposed one change, which was if the five sworn law enforcement officers could not be hired on a given night, that they be replaced with private security officers. The availability of Sheriff's deputies was not up to Mr. Jenkins nor was the ability to hire municipal law enforcement officers.

Commissioner Klusman said Mr. Benshoff had stated there were not any unpermitted buildings at RR and she asked if it would be possible to get copies of all the permits. Mr. Benshoff said it may take awhile for a public records request to be processed and he suggested the County could probably get copies of those permits much quicker.

Commissioner Klusman questioned the authority of private security versus sworn law enforcement officers. Commissioner Caskey said private security officers could not arrest anyone.

Mr. Jenkins explained the only reason for requesting permission to use private security was if RR had trouble hiring the 5 required law enforcement officers. Mr. Jenkins said if no one from law enforcement signed up to assist RR, the County was saying RR could not open without them.

Commissioner Klusman pointed out that as the property owner, Mr. Jenkins was the responsible party and her biggest concern was the safety/security issue and law enforcement should be present.

Mr. Fox pointed out North Carolina General Statutes dealt with the Amusement Device Safety Act (Act) of North Carolina under section 95-111.1 of the statute. Mr. Fox said the Act appeared to regulate certain amusements in NC and required certain pre-opening inspections, testing, certificates of operation, etc. Mr. Fox said if the Board was inclined to approve the rezoning it may want to see if the applicant agreed to the provision as a condition if it was applicable to their use.

Mr. Benshoff said one of the conditions was that RR obtain all subsequent permits as required and he believed the NCGS would fall under that. Mr. Benshoff said if the Commissioners wished to make it a specific condition, he had no objection.

In response to several inquiries from Commissioner Klusman regarding the roads, Mr. Basinger said Old Linn Road was 20 feet from side to side and Daugherty Road was around 22 feet wide.

Commissioner Caskey asked about the entrance on the Blackwelder property off Daugherty Road. Mr. Basinger said there was a 30' right of way through the property and the entrance would be 20' wide. Mr. Jenkins said Old Linn Road was chosen because of the issue with traffic. Mr. Jenkins said the new road was 1800' long and provided three times the length to get the cars off Old Linn Road and onto RR property.

Other than opening night last year, Mr. Jenkins said RR had never had people parking and walking to RR. With the new proposal people would not be able to park and walk in. Everyone would be required to arrive in a car and wait in their car.

Mr. Muire and Mr. Fox explained the difference between spot zoning and the request before the Board.

During an internal staff review, Mr. Muire reported the Sheriff had suggested that any security used by RR would have to be North Carolina Private Protected Services Board Certified in order to ensure the deputies can work in tandem with law enforcement. Mr. Muire said for some reason the item did not make it back into the proposal - but had been agreed to by Mr. Jenkins in concept.

Commissioner Greene shared his concerns with the issues that took place outside of RR with regards to the traffic, drunks in the neighboring yards, and people parking where they were not supposed to be. Commissioner Greene said the County needed officers at RR that could bring in tow trucks and make arrests. Commissioner Greene was concerned over what was being attracted into the community.

Commissioner Caskey said there had been a lot of concern about the entrance on Old Linn Road and he asked if the Board had the ability to require a turn lane or if it would be a DOT matter. Mr. Muire said a turn lane could be a condition/requirement and the applicant would have to agree as a condition of approval; however, the County did not have the data to suggest it be required.

Commissioner Caskey said Mr. Jenkins currently had no conditional use permit and he asked if Mr. Jenkins would need to have all the requirements in place by operations time. Mr. Muire in turn asked if it would be a stipulation by the Board for approval that all measures must be in place before Mr. Jenkins began operating? Mr. Muire noted Mr. Benshoff had said Mr. Jenkins had submitted a new application and he asked if the approval was premised on the other items. Mr. Muire continued by explaining if Mr. Jenkins gained approval but began operations this year without those improvements, then there would have been no change and the County would be back where it was. Mr. Muire said Mr. Jenkins had a lot of work to do in order to be able to open. Mr. Muire said it was now the middle of August and staff had worked to fast-track the application.

Commissioner Pierce said he did not want to see the business close but would like to see it operate in a friendlier manner to its surroundings. Commissioner Pierce said he understood a man should have the right to do what he wanted with his property but he should also be diligent about his neighbors. Commissioner Pierce said he would feel a lot better if he knew there would be no further expansions at the current facility. Commissioner Pierce said the Jenkins had invested a lot of time and money but he also understood some of the neighbors had spent a lifetime in the community. Commissioner Pierce said change was always hard to take and he hoped the Jenkins

would listen to the neighbors and try to do right going forward. Commissioner Pierce said he would move in favor of the zoning change.

Commissioner Caskey asked Commissioner Pierce if he would add additional conditions. Commissioner Pierce responded the Board could look at the conditions it wanted to impose but he did not feel closing RR was the answer; nor, was requiring the Jenkins' to come before the Board each year. Commissioner Pierce said when adopting a Statement of Reasonableness, the Board should include the conditions suggested by Mr. Fox and create a situation where the property would be better controlled.

Commissioner Klusman asked Commissioner Pierce about his idea for controlling the whole property. Commissioner Klusman said the proposed fence at the back of the property would only go a short distance and she said there was another 10 acres zoned Agricultural. Commissioner Pierce said when someone wanted to get onto a property there would always be a way to get in but he was not opposed to asking for additional evergreen screening.

Commissioner Greene said he did not have a problem with what was going on "on the property" Mr. Jenkins owned but he did have a problem with the folks attracted to the community in the prior year. Commissioner Greene said he would like for the Board to put some "teeth" into the request to let people see the police there. Commissioner Greene favored the idea for additional evergreen screening so that when the leaves fell it would help reduce the noise.

Commissioner Klusman said she had grave concerns for safety and she did appreciate all the changes that Mr. Jenkins had made. Commissioner Klusman said emergencies could not be controlled such as the shooting that happened last year. Commissioner Klusman said the Commissioners were duty-bound to make sure the Board kept its citizens safe, whether within RR, or, whether they lived on the outside. Commissioner Klusman again stated safety was her biggest concern and she vehemently objected to the use of all private security officers. Commissioner Klusman did not feel the evergreens would help keep people from getting onto the RR property. Commissioner Klusman said she could not support the request at this time.

Commissioner Caskey said for the most part the proposed changes looked decent but he did have a few other issues of concern. Commissioner Caskey did not like the idea of adding the extra days, especially at Christmas. Commissioner Caskey agreed that law enforcement should be on the scene and he agreed with Commissioner Greene that measures should be taken on the outside to help the neighbors with the issues they had dealt with. Commissioner Caskey agreed additional shrubbery may help buffer the sounds. Commissioner Caskey continued by saying while the application was new, he felt consideration should be given to the past. Commissioner Caskey did not favor approving the request until the conditions were met. Commissioner Caskey said he

was not against the request but if the Board was going to approve it, the Board needed to ensure both sides on the request were satisfied.

Chairman Edds highlighted the positive comments that had been shared regarding the Jenkins family and RR. Chairman Edds said the comments were important and had tremendous value and were what made the decision before the Board difficult.

Chairman Edds said the real question the Board had to ask was if RR was appropriate for the area.

Chairman Edds also highlighted comments that had been shared from the community. Chairman Edds said the Board had considered the request on a yearly basis because there had been challenges.

Chairman Edds talked about the Planning Board's denial of the request and the Statement of Reasonableness. Chairman Edds said he wanted those in support of RR to understand the Commissioners had a lot of past history and experience in dealing with RR, which made the Commissioners careful with its decision.

Chairman Edds asked those in attendance who lived in the neighborhood of RR to raise their hands and many hands went up. Chairman Edds continued by asking those families to raise their hands when he called out the year their homes were built. Chairman Edds said he asked the questions to show that the houses did not come *after* the venue but rather the venue came up next to them after the residents had invested in their homes.

Chairman Edds said while the Board could put conditions on the application, the County would have the constant pressure of how much more the neighbors would have to put up with. Chairman Edds stated the Board could approve the request for this year; however, tonight he would not approve the permanent zoning.

Commissioner Pierce moved to approve a conditional use permit for one (1) year, which he stated would give the County time to come back with what the Board felt like would be compatible for the zoning change - with the requirements the attorney had come up with; with what was needed from Mr. Jenkins as far as the changes he proposed; what the Fire Marshal said was needed. Commissioner Pierce said the information would help develop what was needed to allow Mr. Jenkins to have a permanent zoning situation, provided he hit the benchmarks. The motion was seconded by Commissioner Greene.

Commissioner Greene was of the opinion that if the matter was continued, Mr. Jenkins would not have enough time to have the road built and he would not be able to open this year. Commissioner Greene said he would rather grant a conditional permit this year.

Chairman Edds pointed out the downside to the motion, asking if the County was going to require Mr. Jenkins to spend all the money with the road, etc. with the potential for the Board to deny his request next year.

Further discussion ensued.

Mr. Fox pointed out that Mr. Jenkins previously had a Temporary Use Permit versus a conditional use permit. Mr. Fox said the motion was to grant Mr. Jenkins what he previously had in the past with a term on it. Mr. Fox said he was also hearing that the applicant would proceed with trying to get the conditions in place for a conditional use in conditional zoning.

Commissioner Pierce said he wanted to allow Mr. Jenkins to start the rezoning process in January to give the County time to also work with the neighbors to see what compromise could be reached on the conditions. Commissioner Pierce said 2021 would be a trial period.

Mr. Fox restated he was hearing the motion to grant a Temporary Use Permit as the Board had done in past for one (1) year, with the caveat that the applicant submit a conditional zoning application in January, well in advance of an October date and there would not be an approval of the conditional zoning as a result from this Board and that the application would come back at a later date.

Commissioner Greene said Mr. Fox had referenced some State requirements and the Board was uncertain if Mr. Jenkins qualified and/or met those requirements. Mr. Fox argued that if Mr. Jenkins did meet the NCGS, he had a requirement for the assessment prior to the opening.

Commissioner Klusman said the safety concerns she had discussed, including adequate road access for emergency vehicles, etc., were not addressed in the motion for a temporary permit. Commissioner Klusman stressed it was the duty of the Board to keep the citizens safe.

Commissioner Caskey reiterated his concerns with the application.

Mr. Jenkins said the temporary permit issued last year had all the "teeth" in it and he was okay with the requirements. Mr. Jenkins said building the road would be the big expense and he could not spend \$50,000 to put in the road only to have the application turned down later.

Commissioner Klusman emphasized that if another shooting occurred and without the new road, emergency vehicles would not have adequate access. Mr. Jenkins responded that last year kids had been dropped off; however, drop-offs were no longer allowed. Mr. Jenkins said he would be okay with the temporary use for one (1) year to bring all the buildings up to code and to reevaluate the business.

Mr. Fox said the Board had several options on the table. Commissioner Pierce had made a motion, followed by a second for a Temporary Use Permit for one (1) year. Mr. Fox stated the agenda had a conditional zoning listed. Mr. Fox said the Board had authority to approve a Temporary Use Permit, which did not require a public hearing. Mr. Fox explained if the Board was inclined to grant a Temporary Use Permit, the Board may attach reasonable and appropriate conditions to ensure that the public health, safety and welfare were protected.

The approval of the temporary use shall be in accordance with the following:

- a. The proposed use will not endanger the public health, safety and welfare;
- b. The proposed use will not have a substantial negative impact on the adjoining properties;
- c. The use will be approved for a specific period of time, not to exceed 2 years unless deemed necessary by the Board of Commissioners in accordance with Section 21-11. Extension of the temporary use beyond the approved time shall require approval of the Board of Commissioners in the same manner as the original.

Chairman Edds asked if the Board could vote down the motion and vote to table the matter with the intention to work with staff over next couple of weeks to develop conditions to be acceptable to this Board.

Commissioner Greene said if the Board were to delay the matter, Mr. Jenkins would not be able to hire officers or to hold the October events.

Commissioner Pierce called the question and after further deliberation, Commissioner Pierce withdrew the motion.

Chairman Edds moved to table the item and ask staff to work with the applicant and the Commissioners on acceptable conditions to both parties. The motion was seconded by Commissioner Pierce and passed unanimously.

Chairman Edds called for a recess at 11:48 p.m.

Chairman Edds reconvened the meeting at 11:57 p.m.

5. CONSIDER SNIA 05-21: WOB, LLC

Assistant Planning Director Shane Stewart presented the staff report for Special Non-Residential Intensity Allocation (SNIA) 05-21 from WOB LLC to construct a 12,000 square foot race shop at the 300 block of Performance Road, Mooresville. The property was further described as Tax Parcel 239-061 (Lot 49). The parcel contained a small area of existing gravel, which extended from the adjacent parcel 239-063 (Lot 48), also owned by WOB LLC currently used for parking. The site plan proposed improving the gravel area between the two (2) lots to asphalt, which would connect the existing

concrete area on the adjacent Lot 48 to the proposed concrete parking and bays for the new building.

Commissioner Pierce moved, Commissioner Edds seconded and the vote to approve SNIA 05-21 passed unanimously.

6. SPACE NEEDS STUDY FOR HEALTH DEPARTMENT

This item was moved to the Consent Agenda as item AE at the beginning of the meeting.

7. ARPA FUNDING REQUEST

Micah Ennis, Director of the Department of Social Services, presented a request for ARPA funding. Ms. Ennis said the request in the agenda packet contained a list of three (3) items; however, she wished to strike the second request. Ms. Ennis explained that the second request pertained to technology and after speaking with Randy Cress, Assistant County Manager/CIO, there may be some alternatives to explore.

The remaining requests were for:

- \$24,774.00 to renovate the former file room in Social Work Services to create 5 cubicles. This renovation will allow for up to 5 employees to work safely in what is currently unused space. There is a need for 4 offices for the new CPS Social Worker positions as well as for an intern or other support staff member, such as a Care Coordinator from the LME/MCO.
 - The primary factors for consideration are:
 - Variants of the COVID-19 virus continue to be concerning for staff and the public.
 - Authorization for ongoing remote work ended county-wide.
 - 5 new positions were approved for Child Protective Services.
- The Economic Services Division (ESD) File Room Renovation was originally approved but the new cost figures are slightly higher, totaling \$25,339.00 for that project.

Ms. Ennis reported the budget amendments had been submitted for approval already and the above requests were part of the package.

Commissioner Pierce moved, Commissioner Klusman seconded and the vote to approve the requests as submitted passed unanimously.

8. BROADBAND GRANT PROJECT UPDATE

Nick Steward, Jeff Lloyd and Chase Wingate from OpenBroadband were in attendance to provide the Board with an update on the status of implementing broadband (hereafter referred to as the Project) in the rural and underserved portions of Rowan County.

Using a power point, Mr. Steward reported that the Project was moving forward with equipment installation on two (2) towers within the County, the Young Mountain Tower and Crescent Fortress. Mr. Steward said the paperwork for Young Mountain had already been approved. Mr. Steward took the opportunity to praise Open Broadband’s experience with the County’s permitting process saying it was the best he had worked with. Mr. Steward said he was continuing to work with the Town of Rockwell for the second permit and looking forward to getting equipment deployed there.

Mr. Lloyd reviewed the timelines for the two towers and said full installations should start by mid-October, pending approval of permits.

Mr. Steward said the two (2) towers would allow Open Broadband to provide high speed broadband service to the areas on the map shown via the power point. He also reviewed the broadband sign up process for citizens. In addition to press releases, Mr. Steward said Open Broadband would work with the local newspaper and social media to spread the word of broadband’s availability.

Chairman Edds asked Assistant County Manager/CIO Randy Cress what the County’s next move would be. Mr. Cress reviewed the current federal programs, which were:

Rural Digital Opportunity Fund (RDOF) \$20.4B	American Rescue Plan Act (ARPA 2021)	Emergency Broadband Benefit (EBB)
<ul style="list-style-type: none"> • Charter Spectrum StarLink • 6-year rollout plan 	<ul style="list-style-type: none"> • County Allocation: \$27M • School of Government review Not allowable* 	<ul style="list-style-type: none"> • Existing Providers • Discount: \$50/month for qualifying households

Using a power point, Mr. Cress showed the coverage areas and highlighted the grant opportunities and next steps for the County.

No board action was required.

9. FINANCIAL REPORTS

Finance Director James Howden submitted several financial graphs in the agenda packet, which depicted the following information:

- Annual Cumulative Current Year Property Tax Comparisons as of June 2021 – \$89,776,671
- Annual Cumulative Revenue Comparisons as of July 2022 - \$1,256,374
- Annual Cumulative Expenditure Comparisons as of July 2022 - \$10,825,958

10. BUDGET AMENDMENTS

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

- West End Plaza – Expenditures for damages at Perkins Restaurant at West End Plaza. Perkins and the County will split the expenditures. \$40,000
- Finance – Appropriate fund balance and expenditures for FY 2021 General Fund Encumbrances. \$1,312,683
- Finance – Appropriate fund balance and expenditures approved in FY 2021 for Water Fund. \$796,408
- DSS/County Manager – Use of ARPA funds for the build out of COVID safe offices in DSS’s building - \$119,606
- Finance – Transfer funds to cover Board approved appropriation to River Park for construction of Gatehouse. \$15,967
- Finance – Recognize reserved funds from FY 2021 for Cooperative Extension. Reserved funds represent money received by a Department for a restricted purpose. The funds that have not been spent by year-end are budgeted for expenditure in the new fiscal year. \$45,852
- Finance - Recognize reserved funds from FY 2021 for Soil and Water. Reserved funds represent money received by a Department for a restricted purpose. The funds that have not been spent by year-end are budgeted for expenditure in the new fiscal year. \$2,630
- Finance - Recognize reserved funds from FY 2021 for DSS. Reserved funds represent money received by a Department for a restricted purpose. The funds that have not been spent by year-end are budgeted for expenditure in the new fiscal year. \$1,224,395
- Finance - Recognize reserved funds from FY 2021 for Parks and Recreation. Reserved funds represent money received by a Department for a restricted purpose. The funds that have not been spent by year-end are budgeted for expenditure in the new fiscal year. \$24,676
- Finance - Recognize reserved funds from FY 2021 for the Sheriff’s Office. Reserved funds represent money received by a Department for a restricted purpose. The funds that have not been spent by year-end are budgeted for expenditure in the new fiscal year. \$257,237

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

ADDITION

10a. Closed Session

Chairman Edds said at 12:05 a.m. the Board would now enter into Closed Session in accordance with North Carolina General Statute 143-318.11(a)(3) for attorney-client privileged communication to discuss a workers compensation claim.

Commissioner Pierce moved the Board return to Open Session at 12:30 a.m. followed by a second from Commissioner Greene. The motion passed unanimously.

With regards to issues related to workers compensation claims, Chairman Edds moved to empower the County Manager along with the Human Resources Director and County Attorney to be able to settle claims on behalf of the County up to \$150,000. The motion was seconded by Commissioner Pierce and passed unanimously.

11. ADJOURNMENT

There being no further business to come before the Board, Commissioner Pierce moved to adjourn at 12:41 a.m. The motion was seconded by Commissioner Klusman and passed unanimously.

Respectfully Submitted,

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

Carolyn Barger, MMC, NCMCC
Clerk to the Board