

ORDINANCE NO. 2021-001

**AN ORDINANCE FOR CLOSURE OF AN UNIMPROVED RIGHT-OF-WAY
LOCATED ON SOUTH MAIN STREET BETWEEN 220 & 234 SOUTH MAIN ST. IN
THE CITY OF SMITHS GROVE, COMMONWEALTH OF KENTUCKY.**

WHEREAS, the City-County Planning Commission of Warren County, Kentucky did submit a recommendation for Right-of-Way closing for the 3783 square feet of a portion of an unimproved right-of-way located on South Main St between 220 & 234 South Main St in Smiths Grove, per Gary and Betty Vincent, applicants.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of Smiths Grove, Commonwealth of Kentucky, as follows: Approval of the recommendation of the Right-of-Way closing for the 3783 square feet of a portion of an unimproved right-of-way located on South Main Street between 220 & 234 South Main Street in Smiths Grove, KY

This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on April 26, 2021, with a vote of 4 yea and 1 nay and given final reading on May 24, 2021, with 4 yea and 1 nay and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS 424 and KRS 83A.

ADOPTED: May 24, 2021

ATTEST: Nancy Howard
City Clerk, City of Smiths Grove

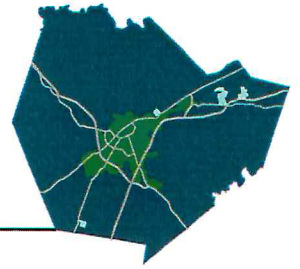
APPROVED: David L. Stiffey
Mayor, City of Smiths Grove

**SMITHS GROVE CITY COMMISSION
ORDINANCE NO. 2021-001**

Ordinance Closure of Unimproved Right-of-Way (Alley), between 220 & 234 South Main Street, City of Smiths Grove, Commonwealth of Kentucky

On May 24, 2021 the City of Smiths Grove Commission adopted the City-County Planning Commission of Warren County, Kentucky's recommendation for Right-of-Way closure for the 3783 square feet of a portion of an unimproved right-of-way located on South Main St between 220 & 234 South Main St. in Smiths Grove, per Gary and Betty Vincent, applicants.

A full copy of the adopted Smiths Grove Ordinance 2021-001 Closure of Unimproved Right-of-Way can be requested from the City-County Planning Commission of Warren County, 270-842-1953 or Smiths Grove City Hall, 146 S. Main Street, Smiths Grove, KY, or email smithsgrovecityhall@smithsgrove.org.



April 5, 2021

City of Smiths Grove
P. O. Box 114
Smiths Grove, KY 42171

SUBJECT: Recommendation for Right-of-Way closing
3,783 square feet of a portion of an unimproved right-of-way located
on South Main St between 220 & 234 South Main St in Smiths
Grove.

Dear Mayor:

The City-County Planning Commission of Warren County met in a Special Called meeting on Thursday, March 18, 2021, via video teleconference on ZOOM with ten (10) members present for this case. After a public hearing had been conducted, the Planning Commission approved, (10 years) for approval to the City of Smiths Grove to close the portion of the alley/right-of-way. Gary and Betty Vincent are the applicants.

Please find attached the staff report that includes a plat of the area proposed to be closed and a summary of the evidence and testimony as presented by the proponents and/or opponents of the proposed alley/right-of-way closing.

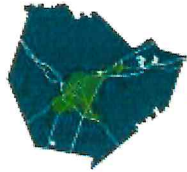
Sincerely,

CITY-COUNTY PLANNING COMMISSION

Jessica Martin
Administrative Assistant II

Enclosures

RIGHT-OF-WAY CLOSING STAFF REPORT



CCPC
City-County
Planning Commission
warrenpc.org | (270) 842-1953
922 State Street, Suite 200
Bowling Green, KY 42101

DOCKET/CASE/APPLICATION NUMBER

2021-01-RWC

PUBLIC HEARING DATE

March 18, 2021

APPLICANTS:

Gary & Betty Vincent

2021-01-RWC Page 1 of 7
PROPERTY ADDRESS/LOCATION

**South Main Street between 220 & 234
South Main Street in Smiths Grove**

PRE-APP DATE

n/a

BRIEF SUMMARY OF REQUEST: The applicants have filed an application to close approximately 0.087 +/- acres or 3,783 square feet of right-of-way, located between 220 and 234 South Main Street in Smiths Grove.



ZONING ORDINANCE REQUIREMENTS

Section 3.17 of the Zoning Ordinance requires that the following items be included with all right-of-way closure applications:

- A. A letter from the applicant directed to the Planning Commission asking for the right-of-way to be closed with explanation of request;
- B. A letter from the City Director of Public Works or Mayor stating that their Agency anticipates no adverse impact with this closing, if right-of-way has been open for 5 years to general public and if right-of-way has been accepted by the legislative body;
- C. A recording plat giving dimensions of proposed closing;
- D. Identification of all property owners abutting the street to be closed and their mailing address as listed in the Property Valuation Administrator's office;
- E. Letter from following agencies stating whether they agree with proposed closing and any conditions they have, e.g., easements:

Fire Chief of Appropriate Fire District
Emergency Medical Service
Water District
Electric Division
Cable Company

Police Chief
Sanitation Service
Sewer District
Phone Company
Gas Company

The applicants have submitted letters from the agencies listed below, along with any conditions from those agencies, to meet the requirements listed above.

- **City of Smiths Grove**, by David L. Stiffey, Mayor
- **Smiths Grove Volunteer Fire Department**, by Kenneth Priddy, Fire Chief
- **Smiths Grove Police Department**, by Jason Franks, Chief of Police

Right-of-Way Closing Staff Report

- **Medical Center EMS**, by Jim Berry, EMS Director
- **Sanitation Services**, by Todd Chamberlain, Division Sales Manager at Republic Trash Service
- **Warren Rural Electric Co-Op Corporation**, by Ethan Durbin, GIS Technician
- **Warren County Water District**, by Thomas Simpson, Engineering Technician
- **South Central Rural Telecommunications Cooperative**, by Chris Lawrence, Business Director
- **Windstream Kentucky East, LLC**, by Sarah Hays, Kinetic Engineering Support Manager
- **Charter Communications (formerly Spectrum)**, by Cory Hendrick, Construction Coordinator
- **Atmos Energy**, by Ryne White, Senior Engineer
- **Barren River District Health Department**, by Cameron Carver, Environmental Services

FINDINGS OF FACT PER KRS 82.405

KRS 82.405 (2) outlines the following findings of fact necessary for closure of a right-of-way:

- A. Identification of all property owners in or abutting the right-of-way to be closed was made by applicant;
- B. Written notice was given to the property owners in or abutting the public right-of-way;
- C. All property owners abutting the right-of-way to be closed have given their written and notarized consent to the closing.

STAFF REVIEW SUMMARY AND SUGGESTED CONDITIONS OF APPROVAL

The applicants have met all of the criteria listed in both the Zoning Ordinance and KRS 82.405. If this application is approved, the applicants plan to consolidate the closed right-of-way with the adjoining properties. The proposed lot configuration is shown on the attached consolidation plat. Staff also recommends the following condition of approval:

- ❖ A plat consolidating the closed right-of-way with the adjacent properties must be recorded at the Warren County Courthouse, within 120 days of final approval of the right-of-way closure by the Smiths Grove City Commission.
- ❖ Such plat shall also include the easements as shown on the right-of-way closing exhibit, and as noted in the agency letter from Warren County Water District.



Right-of-Way Closing Staff Report

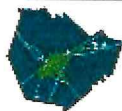
SUGGESTED MOTIONS

I make the motion to **approve** the Right-of-Way Closing, docket number **2021-01-RWC**, with the conditions as listed in the staff report.

My motion is based on the findings of fact as presented in the staff report, and the testimony presented in this public hearing that the Right-of-Way Closing **is** in compliance with Section 3.16 of the Warren County Zoning Ordinance.

OR

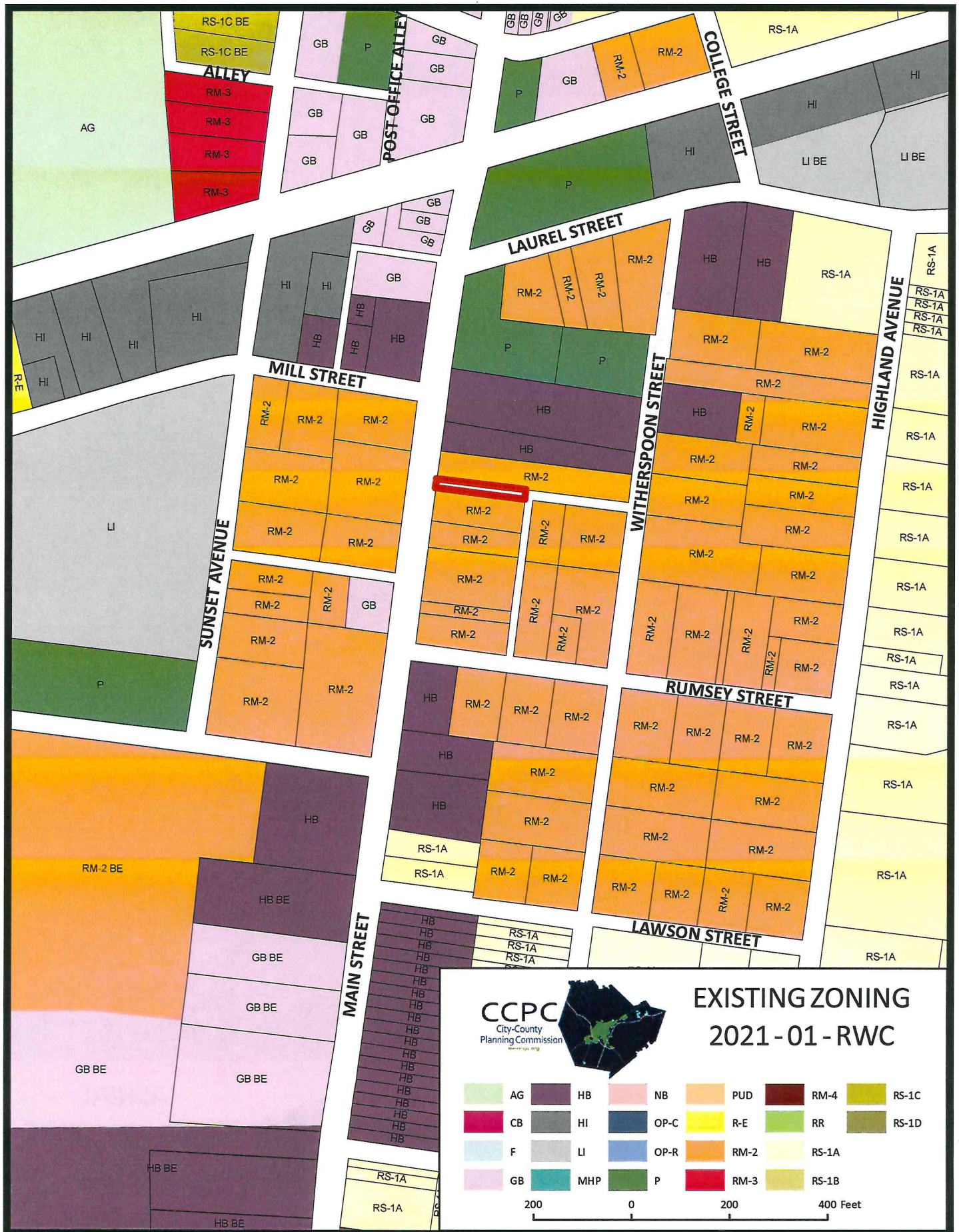
I make the motion to **deny** the Right-of-Way Closing, docket number **2021-01-RWC**. My motion is based on the findings of fact as presented in the staff report, and the testimony presented in this public hearing that the Right-of-Way Closing **is not** in compliance with Section 3.16 of the Warren County Zoning Ordinance.





AERIAL
2021 - 01 - RWC

40 0 40 80 Feet





PROPERTY OWNERS CONSENT TO CITY RIGHT-OF-WAY CLOSING

Clarisse Diane Forbes, South Main Street Smiths Grove, Kentucky.

survey shows how this property will be platted if this right-of-way is closed.

Print Name _____

On this 6th day of October, 2020.

Notary ID: 602989

**PROPERTY OWNERS CONSENT FORM FOR EACH
INDIVIDUAL PARCEL**

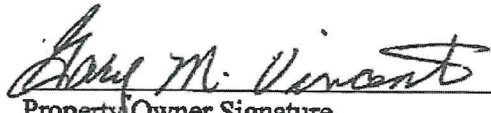
PROPERTY OWNERS CONSENT TO CITY RIGHT-OF-WAY CLOSING

The undersigned, owner of certain real property located at:

Gary Vincent, 220 South Main Street, Smiths Grove, Kentucky.

hereby consents to the closing of a portion of Smith Alley


which adjoins the undersigned's above described property as shown on the survey prepared
by Andrew T. Hawkins, LPLS, dated 11/14/2019. This
survey shows how this property will be platted if this right-of-way is closed.


Property Owner Signature

Gary M. Vincent
Print Name

COMMONWEALTH OF KENTUCKY)
)SS
COUNTY OF WARREN)

Subscribed, sworn to, and acknowledged before me by Gary M. Vincent.
On this 30th day of November, 2020.


NOTARY PUBLIC
Commission Expires: 6-15-2022
Notary ID: 602989

SUMMARY MINUTES
City-County Planning Commission of Warren County
Special Call ZOOM Meeting
March 18, 2021 @ 5:00 p.m.

PRESENT:

Mary Belle Ballance
Shannon Blackburn
Sandy Clark
Greg Gay
Tim Graham
Debbie Richey
India Unseld
Mary Vitale
Christiaan Volkert
Dean Warren
Velma Runner

The City-County Planning Commission of Warren County was called to order by Chairman Velma Runner.

A. ROLL CALL:

Chairman Runner requested Jessica Martin to conduct roll call in order to determine a quorum. A quorum was determined with ten (10) of the twelve (12) Commissioners present at the time of the roll call.

B. APPROVAL OF MINUTES:

Chairman Runner stated all Commissioners had received the minutes of the special called meeting held on March 4, 2021. She asked if there were any corrections to the minutes. Being none, she asked for a motion. The Motion was made by Commissioner Volkert that the minutes be approved, seconded by Commissioner Unseld, and agreed upon (7 yeas and 3 abstained) to approve the Summary Minutes of the March 4, 2021 special called meeting as written.

Hon. Hamp Moore, of Cole and Moore Law Office, Attorney for the Planning Commission, requested the Chairman order that the Joint Zoning Ordinance of Warren County, Kentucky; the Subdivision Regulations; and the Comprehensive Plan with all of its elements effective as of this date (March 18, 2021) be introduced as exhibits for each of tonight's hearings. He further requested the Chairman order that the Staff Report, with all attachments together, along with the Commission's entire file for the applications be likewise introduced as exhibits. Hon. Hamp Moore asked that the Oath be administered to Ben Peterson, Executive Director, Rachel Hurt, Planner and Monica Ramsey, Planner be sworn as a witness before the Planning Commission and that their oath and qualifications be reflected in the record for tonight's hearing. Chairman Runner so ordered and swore in the witnesses.

C. FINANCIAL REPORT

Chairman Runner stated the FY 2022 proposed budget was in the Commissioner's packet. Mrs. Megan Mooney went over the report and stated the Budget Committee has approved this version earlier in the week. She asked if there were any questions. Commissioner Clark asked if there was any employees that received unemployment for lack of hours when they were home. Mr. Peterson stated no one missed work due to Covid and allowed some to work from home and remote in. Chairman Runner asked if there were any further questions from the Board. Being none, she asked for a motion. **Commissioner Warren made a motion, second by Commissioner Volkert, to approve the FY2022 budget as presented. The vote was ten (10) yeas, so approved.**

D. PRELIMINARY SUBDIVISION & SITE DEVELOPMENT PLANS

Chairman Runner asked if there were any questions or comments on the Subdivision and/or Site Development Plan approvals. Being no questions or comments, she proceeded to the next item on the agenda.

E. LETTERS OF CREDIT AND PERFORMANCE BONDS

Chairman Runner stated there was no letter of credits or performance bonds on tonight's agenda.

F. OLD BUSINESS

Chairman Runner announced there was one old business for tonight's agenda from the March 4, 2021 meeting:

2020-11-Z-BG – Sam Potter Jr. and Jeffrey & Betsy Harned have filed an application to rezone tracts of land containing approximately 13.50 acres located at 603 & 611 Highland Way and 2310 Nashville Road from RS-1A (Single Family Residential) to RM-3 (Townhouse/Multi-Family Residential) and GB (General Business), both with a general development plan.

Hon. Hamp Moore asked Mrs. Martin to read the names of the Commissioners that was present at the March 4th hearing and which are present to determine a quorum. Mrs. Martin called the names that was present and determined a quorum with seven Planning Commissioner present (Commissioner Ballance, Blackburn, Clark, Richey, Unseld, Volkert and Runner). Hon. Hamp Moore stated at the time of the recess on March 4th, they had concluded with all of the evidence and are only dealing with the amended Development Plan Conditions from the applicant. He stated with consultation with the two attorneys and Mr. Will Heller, the Chairman have established a protocol for the hearing: 1. Mr. Pardue will be provided 10 additional minutes within which to present amendments to his client's Development Plan Conditions (DPC). At the conclusion, Mr. Stainback and other opponents will be afforded the opportunity to ask questions (cross-examine) of Mr. Pardue. 2. Mr. Stainback will be provided 10 additional minutes within which to present his response to the amended DPC's. At the conclusion, Mr. Pardue and other opponents will be afforded the opportunity to ask questions (cross-examine) of Mr. Stainback. 3. Mr. Will Heller will be provided 10 additional minutes within which to present his response to the amended DPC's and any other comments he did not make during the time afforded him during the March 4 hearing. 4. Any other interested party will be provided 3 additional minutes to comment on the amended DPC's. Attorneys may cross-examine along with any other interested party. 5. At this point, the public hearing should be complete. 6. Mr. Stainback will be afforded 3 minutes within which to make a closing argument, along with any other interested party who feels that Mr. Stainback has not sufficiently presented the opposition. 7. Mr. Pardue will be afforded 3 minutes within which to make a closing argument on behalf of the applicants. Hon. Hamp Moore stated the Board Chair will do her best to limit repetitive testimony. The Planning Commission has already heard several

hours of testimony on March 4, 2021 concerning affordable housing, traffic impact, automobile collisions, safety, sufficiency of the traffic impact study, compatibility of the proposed development with the existing neighborhood, change in neighborhood character caused by the development, sufficiency of proposed landscape buffer, commercial encroachment, the desire to have no commercial connection to the Highland Drive, property values, building heights, the need for additional greenspace, the need for more park facilities. All of the testimony and documents which address these issues are already a part of the hearing record. Presentations made and written documents produced on March 18 will likewise be made a part of the hearing record. It remains the goal of this hearing to provide the public with an opportunity to be heard and to avoid repetitive testimony on relevant topic. Commissioner Volkert asked if Velma had the right to stop someone if they start discussing the topics he has mentioned. Hon. Hamp Moore stated he is correct.

Mr. Tad Pardue discussed his amendments submitted to the Planning Commission due to the concerns raised and started with the General Business portion:

1: The Property may be developed with a maximum of six (6) residential dwelling units per acre for a residential use, and a maximum of 52,000 square feet of commercial and/or office use.

6: The maximum height of structures on the Property shall not exceed two (2) stories.

7: Added packaged liquor store to prohibited uses.

The following changes are for the RM-3 portion:

4: Added "An eight (8) foot tall, solid wooden fence shall be constructed on the Property along all boundary lines shared with any property used for a single family residence."

6: The maximum height of structures on the property which are located within forty (40) feet of any property used for a single family residence shall not exceed one (1) story. The maximum height of all other structures on the Property shall not exceed two (2) stories.

10: The developer will specify a uniform color scheme for all structures to be uniform in appearance (no more than one (1) color of brick, stone vinyl, cementitious siding or similar cement-based materials, one (1) roof color and uniform window and trim color). There will be a maximum of three (3) building plans for structures with eight (8) residential units and one (1) building plan for structures with four (4) or fewer residential units, approved by the developer.

Mr. Tad Pardue stated they believe with these changes they further solidify compatibility between Judge Potter proposed development and the surrounding areas that include everything from single family development, RM-4, General Business and Highway Business. Chairman Runner asked if the Commissioners had any questions. Commissioner Clark asked if the applicant planned to maintain the fence. Mr. Pardue stated the fence would be constructed by the developer and the developer would be required to maintain it. Chairman Runner asked if the opposition had questions for Mr. Pardue.

Mr. Nick Heller, who was sworn in from the March 4th meeting, asked if a two story building could be put at 41 feet from the single family property. Mr. Pardue stated that was correct. Mr. Heller asked why not have all the apartments under one owner. Mr. Pardue stated his client is unable to commit even though it is their intent for single ownership there is a possibility for it not to be. He stated they felt they addressed any concerns that might be brought by multiple ownership with the condition number 10. Mr. Nick Heller stated a common theme through Bowling Green is when you divide up they will go downhill quicker.

Mr. Will Heller, who was sworn in during the March 4th meeting, He asked about the red line that borders the single family property. Mr. Tad Pardue stated he agreed to a 20 foot no development area and a 10 foot tree protection zone. Mr. Heller asked if there has been a canvas of the number

of trees that would be removed on the property. Mr. Pardue stated there has not been a count of the trees. Mr. Heller asked if the fence is going to be on the property line or inset into the property. Mr. Pardue stated he couldn't speak to that since it depends on the condition if there are trees on the property line that need to remain but stated if it isn't on the property line it will be on his clients' property. He stated they have commented to construct the fence. Mr. Heller asked if he prohibited packaged liquor sales but his clients could build strip malls, fast food restaurants or any type of gas station they wanted. Mr. Pardue stated he wasn't sure what he meant by strip mall but there is a capability of retail uses and permissible uses that include restaurants and gas stations up to four pumps similar to what is across the street that would share an intersection with this proposal. Mr. Heller stated strip malls, fast food restaurants and gas stations are not shown on your concept plan. Mr. Pardue stated he didn't know what he meant by strip centers. Mr. Heller stated they mentioned it in their pre-app notes. Mr. Pardue stated they can have retail/office space and stated their traffic study had assumed the worst case scenario as developed entirely retail despite the concept plan. Mr. Heller stated there is no understanding to what they are looking to build in the General Business section. Mr. Pardue stated office/retail and any other use permitted in the General Business zone which all would be compatible with the 100+ list that someone submitted to the Commissioners of uses within the area. Mr. Heller stated they don't have any knowledge of for sure businesses like a bank or other companies. Mr. Pardue stated that was correct, they have had preliminary discussions but they do not have specific users tied to the General Business zone. Mr. Heller asked if it was a possibility to have four gas stations or three gas stations and one fast food restaurant. Mr. Pardue stated theoretically yes but he had a hard time visioning that. Mr. Heller stated those are profitable businesses so he does not have a hard time seeing it.

Ms. Andrea Clan, who was sworn in at the last meeting, asked if they knew who the developer would be if this was passed. Mr. Pardue stated no, not at this time.

Mr. Frank Stainback, attorney for some of the neighboring property owners, asked for clarifications on the concept plan. Mr. Pardue and Mr. Stainback went over the lines that are adjacent to the single family properties. Mr. Stainback asked if he was correct that the fence would not be put on the adjacent single family residence property. Mr. Pardue stated that was correct. Mr. Stainback asked if that could be put in the conditions that it would be built on the Potter/Harned property and not on the property line. Mr. Pardue stated they will not be permitted to build on adjacent property but it would be either constructed on the line or Judge Potter's property but would be happy to include language in if they need to. Mr. Stainback asked for a condition that Potter/Harned will be responsible for the cost to construct the fence and the maintenance of the fence. Commissioner Volkert asked if they were going to have an HOA for the units. Mr. Pardue stated if they were under single ownership they probably won't. He stated the developer will have to construct and maintain the fence and felt it isn't necessary to put in the conditions since it is assumed just like the fact that it can't be constructed on someone else's property. Mr. Stainback asked if they agreed to Potter/Harned to reasonably maintain the fence. Mr. Ben Peterson interjected and stated those would be property maintenance issues and development plan conditions are enforced by Planning Commission staff and this would be assigned property maintenance issues to Planning Commission when it is City of Bowling Green Code Enforcement's duties. He explained that we do have building permit review and stated they can't approved constructed on someone else's property without their consent/signature. Mr. Stainback stated he respected what the Director stated and asked if Mr. Pardue's clients would prohibit fast food restaurants and fuel stations in the General Business since they are open long hours and generate more traffic. He felt they would not be compatible with the single family neighborhood. Mr. Pardue stated that was a request that he has previously made and have discussed that with the

applicant. He stated they are not in agreement with prohibiting those uses. Commissioner Volkert asked about prohibiting the hours since that was a concern expressed. Mr. Pardue stated some thought was given to that since the full station on the corner of Emmett has a condition of hour of operation being 5 a.m. to midnight. Commissioner Volkert asked if they would commit to the same restriction. Mr. Pardue stated they can commit to that on behalf of his clients. The new condition is number 12 in the General Business portion: "Hours of operation will be limited to 5 a.m. to midnight." Mr. Stainback asked about the material/labor commitment on the RM-3 portion and not the responsibility of any of the opposition. Commissioner Volkert stated it is on their property and they would have to pay for it. Mr. Pardue stated that was correct. Commissioner Volkert stated they can't get the building permit without the fence and it would be their responsibility. Mr. Stainback asked if he considered the 25 foot rear setback line to be applicable with the Potter/Harned project in the Zoning Ordinance. Mr. Pardue stated his clients will be required to comply with all applicable provisions of the Zoning Ordinance when the property is developed. Mr. Stainback asked if they would agree to a 25 foot no build zone instead of a 20 feet. Mr. Pardue stated they will comply with all applicable requirements of the Zoning Ordinance. Mrs. Hurt stated the staff would not be able to approve a building permit that did not meet the setback since it is required. Mr. Pardue asked Mrs. Hurt that a provision that is already required per the Zoning Ordinance isn't typically in the development plan conditions. Mrs. Hurt stated that was correct that development plan conditions are typically those items that are above or beyond the minimum requirements. Mr. Stainback asked about the sinkhole condition even though it is required. Mrs. Hurt stated there isn't any standards in the Zoning Ordinance regarding sinkholes and that would come up in the engineering stage of the development and would be in coordination with the Public Works Department. Mr. Pardue stated that is why it was a development plan condition. Mr. Stainback asked if he would put a Condition pertaining to drainage to be reviewed and approved by Storm Water division. Hon. Hamp Moore stated drainage is in the Subdivision Regulation and will be reviewed during the plating process.

Ms. Elizabeth Heller, who was sworn in at the last meeting, asked about the development being funneled out to Highland Way from the parking lot on the General Business side. Mr. Pardue stated there is an ingress/egress on the north end of the General Business section and stated eventually when this road alignment is completed, the existing intersection at Highland Way will be right in and right out only. Ms. Heller stated they will cut-through Highland Way with the multiple exits. Hon. Hamp Moore stated there has not been any amendment to the traffic access since the last meeting and if his memory serves him correctly they have been through this topic repeatedly. He stated if there is nothing new on this issue then we will need to proceed. Ms. Heller stated she was trying to get clarification.

Mr. Nick Heller stated they did not discuss in-depth the connection onto Highland because before the road is completed everyone will come onto Highland. Hon. Hamp Moore stated the Commissioners are aware of testimony and if they are confused they will ask questions. Mr. Heller asked if a gas station can be put right next to Highland Way as long as it is facing Nashville Road. Mr. Pardue stated he recalls this coming up two weeks ago and the answer was and still is yes. Mr. Heller asked for clarification that the trees will not be cut if they are 10 inches in diameter. Mr. Pardue stated that was correct it is 10 inches in diameter and six inches off the ground. Chairman Runner asked if there were any further questions for Mr. Pardue's presentation. Being none, she asked for Mr. Stainback to proceed.

Mr. Frank Stainback presented his presentation. He stated his clients request fast-food restaurants and fuel stations of any type not be allowed in the General Business zoning. He stated his clients

felt the additional screening is still inadequate and felt the 20 foot no build zone should be eliminated and replaced with 25 foot no-build zone. He stated there are very few if any of trees with 10 inches in diameters on West boundary. They propose 25 foot no-build zone with planting of Cedars of Lebanon Evergreens. He also suggested a change in the sough boundary to provide minimal damage and/or alteration to the existing vegetation. He stated the density requirements set forth in the Zoning Ordinance will be addressed in his closing. Mr. Will Heller asked if they are trying to make a visual buffer like Pinegrove subdivision did to block off Nashville Road since they are asking to use the same trees that they did. Mr. Stainback stated he didn't have any knowledge of the subdivision he is referring to but they are trying to establish a visual function of buffering by using these types of trees that grow quite large to protect privacy which is addressing in the Comprehensive Plan when it comes to infill development. Chairman Runner asked if there were any further questions for Mr. Stainback. Being none, she called forward Mr. Will Heller for his presentation.

Mr. Will Heller stated he wasn't representing anyone, just himself. He asked Mrs. Rachel Hurt how she interpreted the amount of "several". Mrs. Hurt stated more than three or four. Mr. Heller asked Mrs. Hurt if she personally walked the property. Mrs. Hurt stated no. Mr. Heller asked how she, or any other CCPC staff, determined compliance with PR – 1.7 if they have not been on the property. Mrs. Hurt stated they use aerial photos when doing our evaluation of the application. Mr. Heller asked who reviewed this application. Mrs. Hurt stated the entire staff reviews the application together. Mr. Heller stated the staff deduced that the application was in compliance with PR – 1.7 with using what they submitted and not walking the sight themselves. Mrs. Hurt stated she believes it says it is generally in compliance and pointed out that in the compliance summary has suggested motions and what the staff says in the report is not absolute final since ultimately it is up to the Planning Commissioners to make that determination. Mr. Heller stated it does not have an asterisk by it so appears that it is not up to the board since they deemed it in compliance. Mrs. Hurt stated that if any of the Commissioners feel that the staff has misinterpreted something in the Comprehensive Plan then they have that right to change it in the motion. Mr. Heller asked Mrs. Hurt how many trees she would guess are on the property. Mrs. Hurt stated several. Mr. Heller showed another google view of the property that was taken in spring/summer months and asked if any of the staff could point out in the staff report or general development plan that states how many trees the applicant will be planting and what type they will be. Mrs. Hurt stated that is not in the staff report and if this project moves forward they will be required to submit landscape plans and at that time they will make sure it adheres to the Zoning Ordinance requirements in spacing/numbers and master plant list of acceptable plantings. Mr. Heller stated the image that was provided by applicant that does not show the tree canopy that exist 8-9 months out of the year. Mrs. Hurt stated the aerial views that we look at are from our own data that they have in-house and even though it was taken in the winter they are aware of the trees. Mr. Heller stated LU – 2.1.4 & NC – 1.1.6 was not in compliance since most of the trees on the property will be taken down and there hasn't been any plan to put them back. He stated for NCR – 1.1 felt wasn't in compliance since the area isn't suitable for the development due to natural resources like trees and sinkholes. Mr. Heller asked if the staff is aware of any cave openings within a mile of this property. Mrs. Hurt stated she did not research any cave openings in the area. Mr. Heller asked if anyone knew the reason of the Corvette Museum (in 2014), Dishman Lane (in 2002), or the Dairy Queen (in late 90s) collapse. No answer was given. He stated he mentioned the last two because they are close to this location. Mr. Heller asked if it would surprise anyone that the three collapse was due to construction on top of sinkholes or cave openings. Commissioner Clark stated they do not do the engineering for the project and they hire them prior to construction to take care of that. Mr. Heller stated he understood that but felt there should be great concern and more planning in

the area where sinkholes and caves are known to be. Mr. Heller stated logical, future planning is needed. He asked Mrs. Hurt where the sidewalks or Greenways will be. Mrs. Hurt explained where she knew sidewalks were for sure and that the Greenways was just a concept. Mr. Heller stated they must push the development to continue the sidewalks along Nashville Road. Chairman Runner asked if there was anyone else that would like to make a comment or questions.

Mr. Jessie Robert Shadowen, 608 Highland Way, was sworn in. He stated all the properties along Nashville Road on the Highland Way side will be commercialized in the future because of this trend so the Planning Commissioners should keep that in mind in the future.

Mr. David Bryant, 872 Lynnwood Way, was sworn in. He stated he is a nursing student working in the Emergency Room full time and felt multi-family is incompatible with Highland Way single family community. He felt concern of being primarily college student and problems that could arise from that and stated he was not in support with this.

Mr. Nick Heller stated he can wrap his head around General Business along Nashville Road even though he wouldn't like to see it personally. He stated he doesn't know how anyone could wrap their head around putting RM-3 right next to a single family neighborhood that has been there for a very long time. He stated they could approve the General Business and deny the RM-3 since it is clearly not compatible. He stated he has seen thousands of meetings and see applications denied for less reasons than what they have presented tonight.

Ms. Andrea Clan asked for everyone to take a moment and think about what is about to happen in a decade where they may be looking at eye sores if they are not well maintained since there may be multiple owners. She asked for them to think if this was the right thing for this beautiful historic neighborhood.

Ms. Katherine Shadowen, 608 Highland Way, was sworn in. She stated she came back to Bowling Green from a brief time at college in another state because she didn't enjoy living in the city. She expressed concern about the change in the neighborhood with apartments next door, including their quality of life and property values. She stated most of the people that live on Highland Way do not want this to go through and hope that they will take that into consideration.

Ms. Elizabeth Heller stated she doesn't represent anyone besides herself but canvased her neighborhood and talked to over 70 individuals that were not in favor of this. She stated the reason that they are seeing so many passionate people over this case is because of who the applicant is and that people feel like it is a done deal because of who he is. She stated if they wanted to get an attorney they had to go out of town to get one. She stated it seems like a done deal and the optics on this is gross.

Ms. Elizabeth Gafford, 2174 Nashville Road, was sworn in. She thanked the Commissioners for staying up so late at the last meeting. She stated it is established neighborhoods like this that sets Bowling Green apart and make it unique. She stated you can't just throw up an established neighborhood anywhere and asked for them to consider the value of that. Chairman Runner asked if there were any further comments before they went into closing arguments. Being none, she asked for Mr. Frank Stainback.

Mr. Frank Stainback stated his client's request that fast fuel stations be added to the list of prohibited uses in the General Business zone. He asked for the Commission to deny the rezoning

to lots 9 & 10 since there has not been any changes in that area to warrant the amending the zoning to RM-3. He stated this is an infill project and the Comprehensive Plan makes clear that density is an important factor in determining clear compatibility required for rezoning for an infill development. He presented the density map that was compiled by the staff. He stated the comprehensive plan suggests the new development should not exceed the density for no more than 50% of the surrounding area. He stated his calculation was 3.4 dwelling units per acre of existing density and stated 5.0 dwelling units per acre should be what is suggested in the RM-3 not 13. He stated these apartments are not compatible, much less clearly compatible, with the surrounding older neighborhood.

Mr. Kevin Brooks stepping in to finish for Mr. Tad Pardue since he had to leave. He stated the Planning Commissioners have been aware of all the facts on this application. He stated the prism to view all of these facts are compliance with the Comprehensive Plan. Mr. Brooks stated the first part, and a very important part, of that is compliance with the Future Land Use Map which this application does comply with. He stated the next portion of compliance is the compatibility standard which the Comprehensive Plan tells you specifically what you should consider, primarily the development plan conditions that they have proposed. He stated they came with strong conditions to lend this project to being compatible and they have made substantial amendments. He stated he believes the results should be clear and asked for them to approve this application.

Chairman Runner asked if the Commissioners had any comments or questions before she asked for a motion. Commissioner Clark stated she has been around the Planning Commission for a long time and this has been a very long meeting. She felt that she and the other Commissioners have listened to the applicant, to the neighbors and everyone that has been able to speak. She stated that nothing is ever a done deal and nothing is ever setup before it starts. She stated they consider every case that comes before them and drive by the properties and walk around where neighbors even wonder what they are doing. Commissioner Clark stated they take this serious and this has been a long and drawn out procedure. She felt the applicants have gone above and beyond. She wanted the neighbors to know they have listened to every single thing they have said and thanked them for being patient. Commissioner Volkert agreed with Commissioner Clark. Chairman Runner asked for a motion.

ACTION: Commissioner Clark made the motion, seconded by Commissioner Volkert, to approve the proposed Zoning Map Amendment, together with and conditioned upon the General Development Plan, docket number 2020-11-Z-BG. Based upon the testimony and documents presented in this public hearing, the proposed Zoning Map Amendment is consistent with the adopted FOCUS 2030 Comprehensive Plan as demonstrated by its compliance with the objectives and action items presented in the staff report. Therefore, the proposed Zoning Map Amendment is in agreement with the adopted Comprehensive Plan. Further, I request that this motion include the summary of evidence and testimony presented by the witnesses at this public hearing. The vote was six (6) yeas and one (1) nay (Commissioner Ballance), so the recommendation will be for approval.

G. NEW BUSINESS

Chairman Runner announced there was no new business for tonight's agenda.

H. PUBLIC HEARINGS

She stated the following there has been a request to switch items 4 & 5 tonight. She asked if there are any objections to that request. Being none, Chairman Runner announced the first item on the

2021-01-RWC – Gary M. & Betty Vincent have filed an application to close approximately 3,783 square feet of a portion of an unimproved right-of-way located on South Main St between 220 & 234 South Main St in Smiths Grove.

Mrs. Monica Ramsey presented the staff report. (*Note: Staff reports available upon Open Records Request*).

Chairman Runner asked if there were any questions for the staff. Chairman Runner asked if there were any questions or opposition. Being none, she asked for a motion.

ACTION: Commissioner Gay made the motion, seconded by Commissioner Warren, to approve the Right-of-Way Closing, docket number 2021-01-RWC, with the conditions as listed in the staff report. My motion is based on the findings of fact as presented in the staff report, and the testimony presented in this public hearing that the Right-of-Way Closing is in compliance with Section 3.16 of the Warren County Zoning Ordinance. The vote was ten (10) yeas, so approved.

Commissioner Vitale entered the meeting making the total number of commissioners to eleven (11). Commissioner Ballance left the meeting making the total number of Commissioners to ten (10). Chairman Runner announced the next two items on the Agenda:

2021-10-FLUM – Edgehill Farms Inc. & John Franklin Ballance have filed an application for a Future Land Use Map Amendment on portions of tracts of land containing approximately 2.42 acres located on a portion of 0, 302 & 332 Laurel Street and a portion of 0 Kentucky Street in Smiths Grove from Light Industrial to Neighborhood / General Commercial.

2021-19-Z-SG – Edgehill Farms Inc. & John Franklin Ballance have filed an application to rezone portions of tracts of land containing approximately 4.22 acres located on a portion of 0, 302 & 332 Laurel Street and a portion of 0 Kentucky Street in Smiths Grove from LI (Light Industrial), with a development plan conditions, HI (Heavy Industrial) and RS-1A (Single Family Residential) to LI (Light Industrial) and GB (General Business), both with a general development plan.

Mrs. Monica Ramsey presented the staff report. (*Note: Staff reports available upon Open Records Request*).

Chairman Runner asked if there were any questions for the staff. Commissioner Clark asked if the current business is out of zoning compliance. Mrs. Monica Ramsey explained the portion of the existing business that is located in the RS-1A and part of the purpose of the application is to clean up the zoning for the use to continue. Mr. John Ballance, 13101 Louisville Road, was sworn in. He explained they owned and occupied the business since 2013, explained updates he did to the property and how changing lot lines made him aware of the zoning issue. He felt the multi-family was a good barrier between the light industrial. Commissioner Clark asked if he had anything coming in there or just cleaning it up right now. Mr. Ballance stated he had no immediate plans, detailed some site work he has done recently and that he has been in talks of possible purchasing the other tracts in the corner. Commissioner Clark stated it looks a lot better. Chairman Runner asked if there were any questions or opposition. Being none, she asked for a motion on the FLUM

ACTION: Commissioner Gay made the motion, seconded by Commissioner Clark, to approve the proposed Future Land Use Map Amendment, docket number 2021-10-FLUM. Based upon the testimony and documents presented in this public hearing, the proposed FLUM Amendment has met the criteria to amend the FLUM as outlined in LU-1.1.4 in the Comprehensive Plan. Further, I request that this motion include the summary of evidence and testimony presented by the witnesses at this public hearing. The vote was ten (10) yeas, so approved.

Chairman Runner asked for a motion on the zone change.

ACTION: Commissioner Richey made the motion, seconded by Commissioner Clark, to approve the proposed Zoning Map Amendment, together with and conditioned upon the General Development Plan, docket number 2021-19-Z-SG. Based upon the testimony and documents presented in this public hearing, the proposed Zoning Map Amendment is consistent with the adopted FOCUS 2030 Comprehensive Plan as demonstrated by its compliance with the objectives and action items presented in the staff report. Therefore, the proposed Zoning Map Amendment is in agreement with the adopted Comprehensive Plan. Further, I request that this motion include the summary of evidence and testimony presented by the witnesses at this public hearing. The vote was ten (10) yeas, so the recommendation will be for approval.

Commissioner Ballance returned to the meeting making the total number of Commissioners to eleven (11). Chairman Runner announced the next item on the Agenda:

2021-21-Z-CO – GVTP Development, LLC & Jim Crockett Fish has filed an application to rezone a tract of land containing approximately 13.0156 acres located on 0 Elrod Rd (bounded by Stagner Lane and Emberton Road) from AG (Agriculture) to RS-1D (Single Family Residential), with a general development plan.

Mrs. Rachel Hurt presented the staff report. (*Note: Staff reports available upon Open Records Request*).

Chairman Runner asked if there were any questions for the staff. Commissioner Graham asked if this was an extension to the existing Stagner Farms Subdivision. Mrs. Hurt stated yes and that the only difference is the current development is PUD with differences in front yard setbacks and this portion follows the RS-1D standards. Commissioner Graham asked if this portion will have a different HOA. Mrs. Hurt stated it will be under the Stagner Farms HOA. Chairman Runner asked if there were any further questions. Being none, she asked for the applicant. Mr. Chris Davenport stated this is the same developer and is an extension of Stagner Farms which will all be under the same HOA. He felt it is a great way to fill the area between the current Stagner Farms and the existing church and doesn't have an additional access to Elrod Road. Chairman Runner asked if there were any questions for Mr. Davenport. Being none, she asked if there was anyone in the audience with questions or opposition.

Mr. David Gifford, 213 Gold Rush Drive, was sworn in. He stated he was the pastor of the church that joins the property and asked what screening was discussed. Mrs. Rachel Hurt stated the condition number 12 says: Each lot adjoining Elrod Road shall have sufficient landscape buffer to

screen any rear or side facades of homes on such lots. Mr. Gifford stated it doesn't address screening for the property line abutting the church property. Mrs. Hurt stated that was correct. Commissioner Clark asked about the little house that is completely surrounding the subdivision and asked if they will put a fence up to protect them. Mr. Chris Davenport stated they haven't heard anything from that owner requesting that. He stated some buffering is required between incompatible uses but this is single family adjoining single family. He stated according to his clients that land is listed for sale. Mrs. Elizabeth Heltsley, 2959 Elrod Road, was sworn in. She stated she is the property surrounded by the subdivision and wondering if there will be some sort of buffering of evergreen trees or something like that. She stated she was told by Stagner Farms that they will be doing that on the other side. Mr. Davenport asked if their property was for sale. Mrs. Heltsley stated that was incorrect and is not for sale. Mr. Davenport apologized and said his client stated the property that is for sale was on the other side of the development. Commissioner Clark asked there has been any buffering installed on the existing Stagner Farms. Mrs. Heltsley stated it hasn't yet. Mr. Davenport stated the property is not finished developing. Commissioner Clark stated she saw a lot of dirt out there and that would help the neighbors with protection. Mrs. Heltsley stated that has been a problem. Commissioner Graham asked for clarification of which one is Mrs. Heltsley property. Mrs. Hurt reviewed the conditions for the existing Stagner Farms and it spoke of landscaping along Elrod Road and to preserve healthy trees to the best of their ability without interfering with utility construction and building envelopes. Mr. Davenport stated his clients are agreeable to a 10 foot landscape buffer along the property line common with the Heltsley property. Commissioner Clark asked if that would be landscaping or a fence. Mr. Davenport stated they are proposing landscape. Mrs. Heltsley stated it appeared they did not go out of their way to save any trees when developing Stagner Farms and seemed to take down every one. She asked if they are preserving the mature trees along the fence line. She explained some of the mature trees they already took down. Mr. Tim Poston stated in reference to preserving trees, they were discussing about the ones besides her property and it was never about the ones in the middle of the field where they will be developing streets and lots. Mr. Davenport asked Mr. Poston if he agreed to make reasonable efforts to maintain mature and healthy trees not existing in building envelopes, utility placement or roadways. Mr. Poston stated yes around Mrs. Heltsley property particularly but they do intend to clear the fence row between the new lots and existing lots since it easily becomes brush. Mr. Davenport asked if that would be within the 10 foot landscape buffer. Mr. Poston stated yes it would be within the 10 feet and stated trees and underbrush are two different things and plan to clean out the brush. Chairman Runner sworn in Mr. Poston and swear that everything he said was the truth. Mr. Poston agreed. Commissioner Graham asked if the added general development plan condition is what trees Mr. Poston was agreeing to. Mr. Davenport stated the developer will commit to a 10 foot landscape buffer along the property line of the Heltsley and within that buffer will leave any mature and healthy trees that currently exist. Mrs. Hurt asked if that would be in addition to development plan number 13. Mr. Davenport stated yes. Mrs. Hurt asked if he was proposing a 10 foot landscape buffer along the common property line and within that buffer they will maintain healthy and mature existing trees. She stated if it is a landscape buffer they would typically have some sort of planting requirement in that buffer and asked if he would defer to the number of plantings outline in the Zoning Ordinance. Mr. Davenport stated yes. Mrs. Heltsley asked if the developer will take down all the trees that are on the fence row behind her property. Mr. Poston stated they probably will not take down all the trees but they want to clean up from lot to lot and get rid of the brush. Commissioner Clark asked if they are going to clean out the fence line and put a new fence up. Mr. Poston stated he wasn't sure if the old fence is still there but they will be cleaning up the area and will not put up a new fence. Mr. Poston stated everyone that buys a home loves to have a tree in the yard so they would like to keep the trees if all possible. Mr. Gifford asked if the trees along the church property will be maintained as well. Mr. Davenport

stated DPC number 13 states they will maintain the healthy mature trees that are not in the building area, street or utilities and that property line will be the least effected. Mrs. Heltsley stated Pennyroyal doesn't have any trees planted in the new yards and asked if the developer plans to plant at least one tree. Mr. Davenport stated that is not a common condition and some people like trees in the yard and some don't. He stated the homeowners are free to plant if they would like. Mrs. Heltsley stated she was on the Bowling Green Tree Board and wanted to encourage the planting of trees. Mr. Poston stated the builder that will be building in Stagner Farms usually plants trees. Mrs. Heltsley asked if it was Jagoe. Mr. Poston stated yes. Chairman Runner asked if there were any other questions or opposition. Being none, she asked for a motion.

ACTION: Commissioner Gay made the motion, seconded by Commissioner Vitale, to approve the proposed Zoning Map Amendment, together with and conditioned upon the General Development Plan, docket number 2021-21-Z-CO. Based upon the testimony and documents presented in this public hearing, the proposed Zoning Map Amendment is consistent with the adopted FOCUS 2030 Comprehensive Plan as demonstrated by its compliance with the objectives and action items presented in the staff report. Therefore, the proposed Zoning Map Amendment is in agreement with the adopted Comprehensive Plan. Further, I request that this motion include the summary of evidence and testimony presented by the witnesses at this public hearing. The vote was eleven (11) yeas, so the recommendation will be for approval.

Commissioner Gay and Commissioner Volkert left the meeting making the total number of Commissioners to nine (9). Chairman Runner announced the last item on the Agenda:

2021-20-Z-CO – J Allen Builders, Inc. have filed an application to rezone a tract of land containing approximately 14.6662 acres located at 0 Mt. Olivet Road (bounded by Penner Road and Plum Springs Road) from AG (Agriculture) to RS-1C (Single Family Residential), with a general development plan.

Mrs. Rachel Hurt presented the staff report. (*Note: Staff reports available upon Open Records Request*).

Chairman Runner asked if there were any questions for the staff. Commissioner Clark asked about sidewalk and greenspace. Mrs. Hurt stated the question has come up before but the existing section in Northridge do not have sidewalks and therefore sidewalks will not be required in the new section since there will not be anything to connect to. Mr. Ben Peterson stated the County did not wish to introduce sidewalks with no connectivity and stated they have had discussions with the developer to figure out how to put a Greenway through the area, which he has been very supportive of but nothing that can be commit to at this time. Mr. Jody Allen was sworn in and stated this is an extension to the existing Northridge Subdivision and matches the existing binding elements. Commissioner Clark asked if he was thinking about putting in a Greenways system in there so people can walk their dogs and baby strollers. Mr. Allen stated the existing subdivision does not have any sidewalks but has over 50 acres of greenspace in it currently and they have been looking at how to get a connection to the park but there are some properties between him and the park. Mr. Allen stated one street over in either direction has five acres of retention space that is mowed. He stated since this is only residential traffic people still walk the subdivision. Chairman Runner asked if there were anyone in the audience with questions or opposition. Being none, she asked for a motion.

ACTION: Commissioner Graham made the motion, seconded by Commissioner Clark, to approve the proposed Zoning Map Amendment, together with and conditioned upon the General Development Plan, docket number 2021-20- Z-CO. Based upon the testimony and documents presented in this public hearing, the proposed Zoning Map Amendment is consistent with the adopted FOCUS 2030 Comprehensive Plan as demonstrated by its compliance with the objectives and action items presented in the staff report. Therefore, the proposed Zoning Map Amendment is in agreement with the adopted Comprehensive Plan. Further, I request that this motion include the summary of evidence and testimony presented by the witnesses at this public hearing. The vote was nine (9) yeas, so recommendation will be for approval.

I. DISCUSSION ITEMS

Chairman Runner asked if there were any discussion items. Mrs. Jessica Martin mentioned the March 30th training through the BRADD on ZOOM. Chairman Runner asked if there were any further discussion items. Being none, she moved to adjourn.

J. ADJOURN

Chairman Runner stated there was no additional business to come before the Commission; the meeting was adjourned.

A handwritten signature in black ink, appearing to read "Velma K. Runner", is written over a horizontal line.

CHAIRMAN, VELMA RUNNER

** Video is available upon Open Records request. This concludes the Summary of Minutes.*