

Staff Report: Completed by Jeff Palmer Director of Planning & Zoning

Report Date: March 4, 2024

Hearing Date: April 1, 2024

Applicant: Brett Scott

Acreage of Request: 1.976 acres

Current Zoning of Requested Area: Non-Residential Planned Unit Development “NR PUD”

Requested Action: Non-Residential Planned Unit Development “NR-PUD” to Neighborhood Business Zone “B-1”

Current Use: Retail and commercial uses

Attached: Location Map, Application, Trustee Resolution 2709, Trustee Resolution 5222, Clearcreek Township 2005 Master Land Use Plan Maps: 4, 6, 10 and 11.

Location of Request:

The parcel is identified as 1555 E. State Route 73, parcel number 05-25-400-028, and account 0119458. The request is located in Section 25, Town 3, and Range 5 in Clearcreek Township.

Applicant’s Reasons for the Application:

“When I purchased the property I intended to use this as a storage and retail. One of the uses didn’t pass so the plan was dropped. Then I had a potential client that didn’t fit in my PUD and they had to request a modification. After the covid pandemic that client had to pull out. So now I’m wanting to go back to just a B1 business.”

Zoning History:

- In 1973 the property was classified as Rural Residence Zone “R-1”.
- In 1978 the property was rezoned to Neighborhood Business Zone “B-1”.
- In 2004 the applicant requested General Business Planned Unit Development “B-2PUD”. The request was modified by the Zoning Commission and upheld by the Trustees to change the property to Neighborhood Business Planned Unit Development “B-1PUD”. All Neighborhood Business Uses were allowed along with a warehouse/storage structure capped at 7,200 sq. ft. See Trustee Resolution 2709.
- In 2004 the parcel was 2.39 acres in size.
- In 2005 the parcel was reduced to 1.976 acres in size because the intersection improvement of State Route 48 and State Route 73.
- In 2020 an agent for the applicant requested the approved use list (Trustee Resolution 2709) to be expanded to include spirits distillery. The Zoning Commission and the Trustees approved the request to rezone the property to Non-Residential Planned Unit Development “NR-PUD”. All the uses allowed in the Neighborhood Business Zone were listed as permitted uses. The warehouse/storage use was permitted for a maximum of 7,200 sq. ft. The Brewpub use was added to the permitted use list. See Trustee Resolution 5222.

Background for the Request:

The applicant is requesting the zoning classification go back to the 1978 designation of Neighborhood Business Zone “B-1”. In 2004 the property was rezoned from Neighborhood Business Zone “B-1 to Neighborhood Business Zone Planned Unit Development “B-1PUD”. The request stopped with Stage 1 PUD approval. In 2020 the property was rezoned from Neighborhood Business Zone Planned Unit Development “B-1PUD” to Non-Residential Planned Unit Development “NR-PUD”. The request stopped with Stage 1 PUD approval. The applicant can continue to cycle tenants through the existing structures but would be unable to expand the structures or build new structures without finishing the PUD process. If the zone change is successful, the applicant would only be able to establish uses found in Chapter 9 of the Clearcreek Township Zoning Resolution. The warehouse/storage and the Brewpub uses that were approved as part of the PUD Stage 1 requests were never established, therefore they are not considered legal non-conforming uses by the zoning department.

Adjoining Zoning Classifications and Current Uses:

- North:
 - General Business Zone “B-2” (Self-Storage).
 - General Business Zone Planned Unit Development “B-2PUD” (Furniture Store).
- West:
 - Neighborhood Business Zone “B-1” (U-Haul Parking).
- South:
 - Residence Zone “R-1” (Cemetery).
- East:
 - Neighborhood Business Zone “B-1” (Retail, Office).
 - Neighborhood Business Zone Planned Unit Development “B-1PUD” (Retail, Self-Storage).

2005 Master Land Use Plan Information:

- Map 4 - Identifies the property to be outside a future Sewer Service Area.
- Map 6 – Identifies the road as a Principal Arterial – Urban.
- Map 10 Identifies the property in Planning Area #2.
 - Planning Area #2 - Middle Belt Combined existing development or committed developments represent more than 75% of this area, with medium density (1- 3 acre lots) using onsite treatment systems.
- Map 11 Identifies the future land use of the property to be Commercial.
- Applicable Goals and Objectives:
 - **Related to the Man-Made Environment:**
 - GOAL: A pattern of land use capable of serving and meeting the social, economic and environmental needs of the residents of the Township, now and in the future.

- **OBJECTIVE:** Establish areas of commercial activity, ensuring a convenient, safe and pleasant environment in meeting the retail and business needs of Township residents.
- **POLICIES:**
 - Perpetuate rural living by encouraging development only on a neighborhood-oriented basis. Commercial development should be either nestled in the interior of a Planned Unit Development along a collector road or along an arterial road network that has a design suitable for the intensity of use. An access management plan should be imposed.
 - Encourage commercial growth equal to what the market will bear. Over-commercialization should be avoided.
 - Encourage cluster-type development for commercial areas. Establish an overlay for these clusters to further encourage use, scale and materials.
 - Avoid strip commercial development and "spot zoning".

See Trustee Resolution 5222 for the Current Uses and Conditions, Below for the Requested Zoning Uses and Requirements:

CHAPTER 9

NEIGHBORHOOD BUSINESS ZONE "B-1" REGULATIONS

SEC. 9.01 The regulations set forth in this chapter, or set forth elsewhere in the Zoning Code, are the zoning regulations for Business Zone "B-1".

SEC. 9.02 Permitted Uses: A building or a lot shall be used only for the following purposes, provided the lot and whatever structures used for human occupancy thereon are either connected to a central sewage system that will be upon the start of operation turned over to the appropriate county department for maintenance and operation or utilize an on site disposal system approved by the Ohio Environmental Protection Agency.

A. Any non-residential use permitted in zones "R-1", "R-2" and "R-3".

B. Standards for districts zones for retail business known as Zone "B-1" Neighborhood Business District. Principal permitted uses within a minor "B-1" district which is entirely surrounded by "R" districts:

1. Any local retail business or service establishment such as grocer, fruit or vegetable store, meat market, drugstore, shoe repair shop, hardware store, barber shop, clothes cleaning and laundry pick-up station, business or professional office or the like, supplying commodities or performing services primarily for residences of the neighborhood.
2. Sit-Down Restaurant, Fast Food Restaurant, Outdoor Dining Restaurant
3. Automobile service stations (filling stations). Minor repair and storage garages, parking lots for passenger vehicles.
4. Bakery
5. Funeral homes
6. Antique Business
7. Second hand store - inside display only

C. Signage in accordance with Chapter 28.

SEC. 9.025 CONDITIONAL USES: The following uses require a conditional use permit (CUP) pursuant to **Section 21.01(F)** of this resolution.

A. Drive Through facility.

SEC. 9.03 The height regulations are the same as for Zone "R-1".

SEC. 9.04 Yards:

A. Front yard: The front yard regulations are the same as for Zone "R-1".

B. Side yard:

1. If the lot adjoins a residence zone the side yard shall be twenty-five (25) feet minimum.

2. If the lot adjoins a non-residence zone, the side yard shall be fifteen (15) feet minimum.

C. Rear yard: If the rear yard adjoins a residence zone it shall be a minimum of twenty five (25) feet.

D. If the rear yard adjoins a non-residence zone it shall have a minimum of fifteen (15) feet.

SEC. 9.05 Lot size: The minimum lot size shall be the same as for Zone "R-1".