

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

Date: June 13, 2022

Applicant: Amanda & Nathan Ramsey

Property Identification: 4023 SR 48, 08-04-476-004

Acreage of Request: 23.199 acres by new Survey Vol 154 Plat 77

Current Zoning of Requested Area: Residence Zone “R-1” (.832 acres), Open Space Rural Residence Zone “OSR-1” (22.50 acres), acreage totals prior to the new survey.

Requested Action: Mixed-Use Planned Unit Development “MU-PUD”

Attached: Application, Concept Plan, Photo of Conceptual Structure, Clearcreek Township Master Land Use Plan Maps: 4, 6, 10, 11, 2019 Warren County Thoroughfare Map.

It is important to keep in mind that the task before you is to Approve, Modify or Deny a zone change that has a Planned Unit Development (PUD) designation. Since it is a PUD request, representation of a concept plan will occur. Section 13.05 (2) Objectives and 13.05 (3) Conditions for Approval, concept plan, narrative and attached documentation should help guide your decision-making process and rationale for your recommendation.

Applicant’s Reasons for the Application:

“We are requesting the zone change so that we may construct a residence as well as a storage building for our Maggard Memorials business. The storage building will be for the storage of equipment and granite related to the memorial business. No retail business will be conducted at this site, just light work associated with the moving of materials for the memorial business. There would be deliveries of granite possibly 2-3 times a month at the most, and some months no deliveries at all. With consideration and forethought, we would only schedule deliveries for after 9:00 am and before 5:00 pm and none between 1:30-2:30 pm so as not to conflict with school dismissal.”

Background on the “R-1” & “OSR-1” to “MU-PUD” Request:

1. Existing Permitted Uses:

- A total of .832 acres (acreage totals prior to the new survey) are zoned Residence Zone “R-1”, which establishes the primary use of the parcels to be residential. This classification allows a minimum lot size of one (1) acre with an on-site wastewater disposal system and one hundred (100) feet of frontage and width and (fifty (50) feet for cul-de-sac frontage). See Chapter 5.75 Residence Zone “R-1” information below.
- A total of 22.50 acres (acreage total prior to the new survey) is zoned Open Space Rural Residence Zone “OSR-1”, which establishes the primary use of the parcel to be residential. This classification allows a minimum lot size of two (2) acres with an on-site wastewater disposal system and one hundred-forty (140) feet of frontage and width and

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(seventy (70) feet for cul-de-sac frontage). See Chapter 5.5 Open Space Rural Residence Zone “OSR-1” information below.

2. Requested Use(s):

- The applicant is requesting approval to establish a single-family dwelling on the property as well as a warehouse/storage structure for their off-site business. The warehouse/storage structure use doesn’t comply with a home occupation option for the current zoning classification. Warehouse use is a permitted use in the General Business Zone “B-2”. The applicant has submitted the request as a Mixed-Use Planned Unit Development “MU-PUD”, to allow a residential and a commercial use on the same parcel. In Clearcreek Township, the only way to establish a mixed use without having one or the other uses classified as a legal non-conforming use is with the Mixed-Use PUD classification.

3. Master Land Use Plan Maps:

- Map 4 Identifies the property to be outside of all Sanitary Sewer Service Areas.
- Map 6 Identifies the property to have road frontage with a “Principal Arterial – Urban” designation.
 - The 2019 Warren County Thoroughfare Plan identifies the road frontage designation as Primary Arterial.
- Map 10 Identifies the property in Planning Area #6.
 - Planning Area #6 – More rolling topography, mixture of large agricultural tracts, rural residential road frontage development and large lot rural subdivisions – roughly 50% built out. No sanitary sewer present and none anticipated. Agricultural, but changing.
- Map 11 Identifies the future land use of the property to be Rural Residential.

4. Master Land Use Plan Applicable Goals, Objectives & Policies:

- a. Related to Desired Community Character:
 - i. GOAL: Retention of appearance and feel of rural character in Clearcreek Township.
 - ii. Objective: Modify development regulation and approval process to assure retention of rural character.
 - iii. POLICIES:
 - Continue to serve as a geographical area of rural relief to the sprawl of the surrounding metropolitan areas.
 - Seek to encourage residential development types which incorporate preservation of private and public open space (conservation design subdivisions, large lot zoning classifications).

- The history of frontage subdivisions has set a character that continues to be desirable, but access to properties needs to be guided by access management plan.
 - Maintain rural lot size in the Township which contributes to the quality of life for property owners, neighbors as well as drivers, through an establishment or perpetuation of rural icons (homes surrounded by open space, barns, fence rows, vegetation).
- b. Related to the Man-Made Environment:
- i. 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.
 - ii. OBJECTIVE: Encourage the prudent development of residential areas with housing types and densities to meet the needs of Township residents, ensuring that a healthy, safe and attractive environment is maintained.
 - iii. POLICIES:
 - Encourage a logical pattern of residential development outside of the Urban Service Areas that is a rural density.
 - Place a stronger emphasis on establishing open space/green belt areas, separating developing residential areas from incompatible uses.
 - iv. OBJECTIVE: Establish areas of commercial activity, ensuring a convenient, safe and pleasant environment in meeting the retail and business needs of Township residents.
 - v. 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."
5. **Zoning History for the Property:** The current parcel was formally comprised of three parcels:
- 08-03-226-011 (.55 acres (acreage total prior to the new survey), "R-1" Zone):
 - On November 6, 1973, the parcel was classified as Neighborhood Business Zone "B-1".

- On April 18, 1985, the parcel was rezoned to Rural Residence Zone “R-1” to fix an identified 1973 map classification error.
- On June 9, 2005, via Trustee Resolution 2890, the Rural Residence Zone “R-1” was reclassified to Residence Zone “R-1”.
- 08-04-476-003 (.282 acres (acreage total prior to the new survey), “R-1” Zone):
 - On November 6, 1973, the parcel was classified as Rural Residence Zone “R-1”.
 - On June 9, 2005, via Trustee Resolution 2890, the Rural Residence Zone “R-1” was reclassified to Residence Zone “R-1”.
- 08-04-451-002 (22.50 acres (acreage total prior to the new survey), “OSR-1” Zone):
 - On November 6, 1973, the parcel was classified as Rural Residence Zone “R-1”.
 - On November 10, 2005, via Trustee Resolution 2980, the parcel was rezoned from Rural Residence Zone “R-1” to Open Space Rural Residence Zone “OSR-1”.

6. Zoning Classifications for Adjoining Properties and Current Use(s):

- North of the property the zoning classifications are:
 - Open Space Rural Residence Zone “OSR-1” (Agricultural Use).
 - Rural Residence Zone with a Planned Unit Development “R-1PUD” (1976 Approved PUD to allow antique sales in an accessory structure, Single-Family Dwelling).
- West of the property the zoning classifications are:
 - Residence Zone “R-1” (Dover’s Run Subdivision, Single-Family Dwellings).
 - Open Space Rural Residence Zone “OSR-1” (Single-Family Dwelling and Agricultural Use).
- South of the property the zoning classification is:
 - Residence Zone “R-1” Zone (Turner Brothers Subdivision, Single-Family Dwellings and a parcel with frontage on SR 48 with a Single-Family Dwelling).
- East of the property the zoning classification is:
 - Open Space Rural Residence Zone “OSR-1” (Single-Family Dwelling and Agricultural Use).

Review of Application:

13.05(A)(1)(b) Step S1.2 – Zone Change Amendment Request/PUD Concept Plan Application:

- (1) Applications for a Zone Change Amendment/PUD Concept Plan shall be submitted, signed by the owner(s) of the PUD or the designated agent, to the Clearcreek Township Zoning Inspector attesting to the truth and correctness of all facts and information presented with the application, on or before the scheduled monthly Zoning Commission meeting deadline, as identified on the Zoning Commission schedule found on the Clearcreek Township website (www.clearcreektownship.com).

Staff Comments: The application has been signed.

- (2) All applications shall be submitted with the required fees as established in the Clearcreek Township fee schedule found on the Clearcreek Township website (www.clearcreektownship.com).

Staff Comments: The fee has been paid.

- (3) The Zone Change Amendment Request/PUD Concept Plan Application shall include the following items:

- a) An area map showing adjacent property owners and existing uses within 200 feet of the parcel(s).

Staff Comments: The information has been submitted, see PUD Concept Plan.

- b) A legal description of the metes and bounds of the parcel(s).

Staff Comments: The information has been submitted, see Application.

- c) A PUD Concept Plan to scale, though it need not be to the precision of a finished engineering drawing, which shall clearly show the following:

- 1) The existing type of topographical features of the site.

Staff Comments: The information has been submitted, see PUD Concept Plan. The topography ranges from 958' to 972'

- 2) The general location of building lots and their areas in acres.

Staff Comments: The information has been submitted, see PUD Concept Plan, Photo of Conceptual Structure.

The applicant proposes a grand total of 11,200 sq. ft. (.2571 acres) of buildings for the site:

- ***PUD Concept Plan identifies the acreage as 23.119 acres.***
- ***Parcel is declared to be 23.199 acres after the new survey.***
- ***Residence & Open Space:***
 - *20.439 total acres:*
 - *14.579 acres for Residential Use.*
 - *5.86 acres of Open Space.*

- 7,200 sq. ft. structure or .1653 acres.
 - Warehouse/Storage Barn:
 - 2.76 acres for Warehouse/Storage Use.
 - 4,000 sq. ft. structure or .0918 acres.
 - ***A conceptual photo has been submitted of a structure. It is unclear if this is a conceptual elevation for the house, warehouse/storage structure or both.***
- 3) The general outlines of the interior roadway system and all existing right-of-way(s) and easement(s), whether public or private with acreage specified.
- Staff Comments: The information has been submitted, see PUD Concept Plan.*
- *The proposed Thoroughfare Plan road right-of-way for this parcel is 60'x315.44'. This calculates to 18,926.40 sq. ft. (.4344 acres).*
 - *Staff calculated the total driveway impervious surface to be approximately 25,900 sq. ft. (.5946 acres).*
 - *Impervious surface attributed to internal and site access is approximately 1.029 acres.*
- 4) Delineation of the various land use areas with an indication for each such area of its general extent, size, and composition in terms of use and bulk of structures.
- Staff Comments: See number 2 & 3 above and 6 below.*
- 5) A calculation of residential net density and/or net floor area ratio.
- Staff Comments: This property is proposed to be mixed-use.*
- The net floor area ratio was calculated, See PUD Concept Plan:*
- *Total building area is 11,200 sq. ft. (.2571 acres).*
 - ***The applicant declared the site to be 23.119 acres (1,007,063.60 sq. ft.)***
 - ***The site is 23.199 acres per the updated survey (1,010,548.40 sq. ft.)***
 - ***The applicant declared the FAR to be .011 (11,200/1,007,063.60)***
 - ***Staff calculated the FAR to be .011 (11,200/1,010,548.40).***
- 6) The interior common open space system with acreage specified.
- Staff Comments: The acreage is identified on the PUD Concept Plan.*
- *The open space is located to the rear of the parcel. A total of 5.86 acres is specified as open space.*

- *The minimum acreage requirement for open space is twenty-five (25) percent per Section 13.09 of the Clearcreek Township Zoning Resolution. This minimum calculates to 5.80 acres of open space.*

- 7) Identification of all areas declared to be an amenity for the PUD with acreage specified. Square footage of structures and percentage of impervious surfaces to be specified.

Staff Comments: The proposal doesn't identify any amenity structures in the open space.

- 8) A drawing showing all soil types and their classifications. Additionally, a map indicating floodway and/or floodplain boundaries as determined by the federal emergency management agency shall be included for sites that have been subject to flooding and/or erosion at any time.

Staff Comments: The information has been submitted, see PUD Concept Plan.

- 9) Where areas lie in any aircraft approach and holding patterns, these areas shall be indicated.

Staff Comments: The information has been submitted, see PUD Concept Plan.

- 10) Principal ties to the community at large with respect to transportation, water supply, and sewage disposal shall be indicated.

Staff Comments: The information has been submitted, see PUD Concept Plan.

Applicant states: "Access onto State Route 48 with no site distance issues. Public water main along State Route 48. Building will be served by septic systems. Site has been preliminary approved by Clearcreek Septic".

- d) A net density plan illustrating the net density able to be obtained if developed under a straight zoning classification, to scale, though it need not be to the precision of a finished engineering drawing, which shall clearly show the following:

Staff Comments: Since the anticipated use is for one (1) single-family dwelling and a warehouse/storage barn, staff required the applicant to calculate the Net Density and not create a drawing for comparison.

- *The applicant calculated a yield of 9 lots.*
- *The applicant calculated a net density of .458 units per acre. $9 / (23.119 - 3.468 \text{ ROW}) = 19.651$.*
- *Staff calculated a net density of .456 units per acre. $9 / (23.199 - 3.480 (15\% \text{ of gross acreage for road right-of-way})) = 19.719$*

- e) A written report containing the following:

- 1) General description of availability of other community facilities, such as schools, fire protection services, and cultural facilities if any, and how these facilities are affected by this proposal.

Applicant states in the Site Narrative: “The site will be served by Lebanon City Schools. Fire Protect will be provided by a fire hydrant at the northeast corner of the property along S. R. 48.”

- 2) Evidence how the developer's proposed land use(s) meet existing and projected community requirements.

Applicant states in the Site Narrative: “This site will have minimal effect on surrounding community facilities as there will only be one residential structure and one storage building. The proposed land use meets the community requirements in that this will be mainly a residential use with a large portion remaining as open space.”

- 3) A general statement how the common open space shall be owned and permanently maintained.

Applicant states in the Site Narrative: “This open space will be maintained by the lot owner.”

- 4) If the development is to be phased, a general indication as to how the phasing is to proceed. Whether or not the development is to be phased, the PUD Concept Plan shall show the intended total project.

Staff Comments: No phasing plan has been submitted.

13.05(2) Stage 1: PUD Objectives

- (a) The Stage 1: Zone Change Amendment Request/PUD Concept Plan shall be acceptable, if:

- (1) The proposed use(s) are appropriate for the parcel(s) being reviewed; and

Staff Comments: The 2005 Master Land Use Plan identified the site as a Rural Residential classification.

- (2) The following information is specified/clarified in the narrative and on the drawing(s) at the time of approval:

- a) The list of uses permitted within the PUD are specified.

Staff Comments: Based upon the PUD Concept Plan and application, the anticipated uses are: one (1) Single-Family Dwelling and one (1) Warehouse/Storage Barn and Open Space.

- b) The general location of such uses is specified.

Staff Comments: The proposed uses have been specified on the PUD Concept Plan.

- c) Any use-specific standards that may apply to the permitted uses are included.

Staff Comments: The applicant hasn't requested any modifications to the Open Space Rural Residence Zone "OSR-1" or General Business Zone "B-2" setback standards.

d) The maximum density or intensity is permitted within the PUD.

Staff Comments: The applicant is requesting only one (1) Single-Family Dwelling, one (1) Warehouse/Storage Barn and Open Space be located on the parcel. The FAR is .011.

e) The amount and general location of open space are identified.

*Staff Comments: This has been specified on the PUD Concept Plan. A total of 5.86 acres of open space has been proposed (25.35%). Per Section 13.09 of the Clearcreek Township Zoning Resolution, a minimum of 25% or 5.80 acres of open space is required. **The open space is located along the rear of the property. No open space is proposed along the northern boundary, southern boundary or along the adjoining property boundary to the east. If the Stage 1 PUD request is approved, a more detailed discussion regarding the required Perimeter and Streetscape Buffers will occur with the Stage 2 PUD submittal. At that time the quality and quantity of existing vegetation will be reviewed.***

- (b) The Clearcreek Township Zoning Commission and/or Clearcreek Township Board of Trustees shall have the authority to impose special conditions related to the PUD and to approve development standards unique to the PUD as deemed necessary in order to promote the public health, safety, morals, and general welfare of Clearcreek Township.

In the Narrative, the applicant states: “The storage building will be for the storage of equipment and granite related to the memorial business. No retail business will be conducted at this site, just light work associated with the moving of materials for the memorial business. There would be deliveries of granite possibly 2-3 times a month at the most, and some months no deliveries at all. With consideration and forethought, we would only schedule deliveries for after 9:00 am and before 5:00 pm and none between 1:30-2:30 pm so as not to conflict with school dismissal.”

Staff Comments: If the proposed use is determined to be appropriate for the parcel, conditions that mitigate concerns and/or codify representations by the applicant would be appropriate as part of the motion.

13.05(3) Stage 1: Conditions for Approval

The following criteria shall be used in the recommendations and decisions made regarding the Stage 1: Zone Change Amendment Request/PUD Concept Plan. Failure to comply with any of these criteria requires that explicit rationale or alternative requirements be set forth.

- (a) The Zone Change Amendment Request/PUD Concept Plan is consistent with the Clearcreek Township Master Land Use Plan;
- (b) The intensity proposed for the PUD does not exceed the maximum density or lot coverage allowed for the PUD as a whole;

- (c) The use(s) proposed will not be detrimental to existing and potential future surrounding uses and will harmoniously relate to the surrounding area;
- (d) The minimum common open space areas have been designated and designed in accordance with the provisions of this Resolution and shall be conveyed to a legally established homeowner's or property owner's association, commercial management group, or other agency as herein provided;
- (e) Approval of the Stage 1: Zone Change Amendment Request/PUD Concept Plan may be conditional upon provisions that are necessary for the protection of public health, safety, morals, and general welfare. Thus, the Clearcreek Township Zoning Commission or Board of Trustees may require the submittal of a revised PUD Concept Plan if it is determined that modifications are required to comply with this Resolution.

Zoning Information for Referenced Zoning Classifications:

**CHAPTER 5.5: OPEN SPACE RURAL RESIDENCE ZONE "OSR-1"
REGULATIONS**

SEC. 5.51 The regulations set forth in this chapter, or set forth elsewhere in the Zoning Code are the zoning regulations for Open Space Rural Residence "OSR-1".

SEC. 5.52 PERMITTED USES: A building or lot shall be used only for the following purposes:

- A. Single family dwellings.
- B. Home occupation as described in Section 5.752 (B).
- C. Community fire house as described in section 5.752 (C).
- D. The sale of household goods, furnishings, clothing, toys, tools and books that have been used by members of the family occupying the premises may be advertised and sold on the premises, provided such sale is not held oftener than every six (6) months, for a period of three (3) days each sale; the items sold were not acquired for the sale.
- E. Publicly owned or operated properties including parks, playgrounds and community centers.
- F. Public forests and nature reserves including the usual buildings therefore.
- G. Private forests and nature reserves, including the usual buildings therefore where parking spaces are limited to ten (10) vehicles.
- H. Model homes as described in Section 5.752 (H).
- I. A temporary or permanent building for protection from the weather elements, shall be required for animals other than for two (2) dogs, which reside on parcels less than five (5) acres. This building shall be established as an accessory, and located in the rear yard and at least eighty-five (85) feet from every property line.
- J. Roadside Farm Market, offering for sale agricultural products of which at least fifty percent (50%) of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. Ample off-

street or off-road parking space shall be provided to take care of all vehicles visiting the roadside farm market. Parking spaces are limited to ten (10) vehicles. See Chapter 16 and 28.

K. Accessory buildings defined as either temporary or permanent and uses customarily incidental to any permitted uses, provided the primary use or structure has been established or constructed on the same lot.

L. Signage in accordance with Chapter 28.

SEC. 5.524 CONDITIONAL USES: The following uses require a conditional use permit (CUP) pursuant to **section 21.01(F)** of this resolution.

A. Schools, public and private, from nursery schools through colleges having curriculum equivalent to public school curricula.

B. Religious institution, provided buildings shall be at least a minimum residential size.

C. Hospital and institutions of an educational, religious, charitable or philanthropic nature, provided the site upon which such uses are located shall contain at least five (5) acres and that such buildings shall not occupy over ten percent (10%) of the total site area.

D. Rest home, nursing home or convalescent home, provided that such buildings shall be located upon a site of five (5) acres or more and shall not occupy more than ten percent (10%) of the total site area.

E. Cemeteries, provided that any cemetery shall contain an area of twenty (20) acres or more.

F. Telecommunication tower: in those instances where a telecommunication tower is made subject to this resolution pursuant to Section 519.211 Ohio Revised Code (ORC) and as the same may, from time to time, be amended, said telecommunication tower shall be located, erected, constructed, reconstructed, changed, altered, or enlarged in accordance with Section 21.01(F)(2) & Section 22.05 of the zoning resolution.

G. Farm Based Tourism

H. Clubs, including country clubs, swimming and tennis clubs, provided that any structures, except fences, shall be at least fifty (50) feet from property lines, and any parking areas necessary to the operation shall be at least two hundred (200) feet from any adjoining residential zone; the setback from street or streets shall be the same as for residences.

I. Recreation area, not for profit, private or charitable, provided a minimum of thirty (30) acres is used and fenced on all sides.

J. Private forests and nature reserves, including the usual buildings therefore with parking spaces for more than ten (10) vehicles.

K. Signage in accordance with Chapter 28.

SEC. 5.53 HEIGHT REGULATIONS: No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

SEC. 5.54 PRINCIPAL STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:

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- A. There shall be a front yard having a depth of not less than one hundred (100) feet except for Open Space Dedication Option Development (OSDOD) lots which shall have a minimum front yard of fifty (50) feet.
- B. For a lot that has frontage on more than one street, the required front yard shall be provided on all streets.
- C. Side yard: There shall be a side yard of twenty-five (25) feet minimum on each side, except for Open Space Dedication Option Development (OSDOD) lots which shall have a minimum side yard of ten (10) feet on each side.
- D. Rear yard: There shall be a rear yard having a depth of not less than forty (40) feet, except for lots with three (3) front yards, in which case the minimum rear yard shall be twenty-five (25) feet.

SEC. 5.545 ACCESSORY STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:

- A. Front yard shall conform to 5.54 (A) and 5.54 (B).
- B. Side yard shall conform to 5.54 (C).
- C. Rear yard shall be a minimum of twenty-five (25) feet.

SEC. 5.55 INTENSITY OF USE: Every lot or tract, except Open Space Dedication Option Development (OSDOD) and a panhandle lot, shall have a minimum continuous frontage and width of not less than one hundred forty (140) feet at any point, except on a cul-de-sac, in which case it shall have a minimum continuous frontage and width at any point of at least seventy (70) feet, and a minimum width of one hundred forty (140) feet at the minimum building setback line and:

A. Every lot or tract, except Open Space Dedication Option Development (OSDOD) proposed as building sites that are not connected to a central sanitary sewage system and are otherwise approved by the Warren County Combined Health District And/Or The Ohio Environmental Protection Agency for individual onsite wastewater disposal system shall contain not less than two (2) acres exclusive of: any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements other than the required side and rear lot line drainage easements required in the Warren County Subdivision Regulations for a plat, high pressure gas pipeline easements, and railroad easements.

B. OPEN SPACE DEDICATION OPTION DEVELOPMENT (OSDOD) IS PERMITTED IN ACCORDANCE WITH THE FOLLOWING REGULATIONS:

1. Subject to the following subparagraphs; Open Space Dedication Option Development (OSDOD) need not meet the minimum lot area and lot width requirements set forth in Chapter 5.5 (Open Space Rural Residence Zone “OSR-1” Regulations).
2. Gross density is .50 dwelling units per acre. Dwelling units are rounded up to the nearest whole number.

3. A minimum of thirty (30) percent of the total project area shall be dedicated as open space.
4. Required open space shall be established using one of the following techniques:
 - a. Conveyed to a legally established homeowners association.
 - i. Identified as a parcel or parcels on the final plat.
 - ii. The open space shall be for the exclusive use of the occupants of said development, unless specified otherwise in the form of a deed restriction.
 - b. Recorded as an open space/limited agricultural easement.
 - i. Shall be privately owned, subject to an open space/limited agricultural easement conveyed to Clearcreek Township.
 - ii. Identified as a parcel or parcels on the final plat.
 - iii. Easements shall comply with the form established by Clearcreek Township Resolution 3043, as currently amended.
 - iv. Easements shall be accepted by Clearcreek Township in the form of a resolution of acceptance prior to approval of a final plat.
 - v. A fee shall be required for the annual inspection of compliance in accordance with chapter 18.06 of the Clearcreek Township Zoning Resolution.
5. Open space shall be prohibited from further subdivision.
6. Open space shall only be credited once and shall be associated with a single subdivision.
7. Buffer Standards For Open Space Dedication Option Development (OSDOD) Subdivisions: Along collector and/or arterial street networks, a buffer shall be required to separate OSDOD dwelling lot(s) from the road right-of-way.
 - a. Required trees shall be arranged parallel to the road right-of-way to provide the maximum screening effect.
 - b. Required berms shall have a slope that does not exceed a one (1) foot of rise per every (3) feet of linear distance.
 - c. Final height of required berms shall be taken from the final grade of the pavement of the existing collector and/or arterial to account for topographical differences between the road right-of-way and the subject property.
 - d. Required minimum size of a deciduous tree is one and one half (1 ½) inch caliper at the time of planting.
 - e. Required minimum size of an evergreen tree is five (5) feet in height at the time of planting.
 - f. The buffer shall be located on ground owned and maintained by the homeowners association.
 - g. The buffer shall be installed by the developer and documented by the Clearcreek Township Zoning department prior to the issuance of a single-family zoning permit for the development.

8. Location Options For Buffers For Open Space Dedication Option Development (OSDOD) Subdivisions:
 - a. Option 1: Minimum depth of separation between OSDOD dwelling lot(s) and the arterial and/or collector road right-of-way is less than one hundred (100) feet.
 - i. An earth berm a minimum of seven (7) feet in height shall be required.
 - ii. The berm shall be located adjacent to the road right-of-way and out of all recorded easements or adjacent to the arterial and/or collector street side of the OSDOD dwelling lot(s).
 - iii. A minimum of fourteen (14) trees per every one hundred (100) feet of property width shall be required and shall be located on the earth berm.
 - b. Option 2: Minimum depth of separation between OSDOD dwelling lot(s) and the arterial and/or collector road right-of-way is equal to or greater than one hundred (100) feet and less than three (300) feet.
 - i. An earth berm a minimum of four (4) feet in height shall be required.
 - ii. The berm shall be located adjacent to the arterial and/or collector street side of the OSDOD dwelling lot(s).
 - iii. A minimum of nine (9) trees per every one hundred (100) feet of property width shall be required located on the earth berm.
 - c. Option 3: Minimum depth of separation between OSDOD dwelling lot(s) and the arterial and/or collector road right-of-way is equal to or greater than three hundred (300) feet.
 - i. A minimum of four (4) trees per every one hundred (100) feet of property width shall be required.
 - ii. The buffer shall be located adjacent to the arterial and/or collector street side of the OSDOD dwelling lot(s).
9. Minimum lot size shall be one (1) acre exclusive of: any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements other than the required side and rear lot line drainage easements required in the Warren County Subdivision Regulations for a plat, high pressure gas pipeline easements, and railroad easements.
10. Each lot shall have a minimum frontage and width of not less than one hundred (100) feet, except on a cul-de-sac, in which case it shall have a minimum frontage of at least fifty (50) feet, and a width of at least one hundred (100) feet at the minimum building setback line.
- C. The maximum lot depth to width ratio shall be 5:1. This requirement applies to lots less than five acres in size. Panhandle lots regardless of size are exempt.

ADVISORY NOTE: For the residential lots utilizing on-site sewage disposal systems, lots larger than the zoning code minimum may be required by

the Warren County Combined Health District contingent on the suitability of soils present on the lot.

SEC. 5.56 MINIMUM SIZE: The minimum size of any single family dwelling, exclusive of porches, garages and breezeways, shall be one thousand two hundred fifty (1250) square feet of floor space.

SEC. 5.57 FOR LOTS OTHER THAN OSDOD, PANHANDLE LOTS ARE PERMITTED SUBJECT TO THE FOLLOWING REGULATIONS:

- A. Panhandle lots shall not be "stacked" one behind the other relative to a street or road.
- B. The panhandle portion of the lots shall have a minimum frontage and continuous width of twenty (20) feet and a maximum frontage and width of forty (40) feet.
- C. The panhandle portion of the lots shall have a maximum length of twelve hundred (1200) feet.
- D. The body of the lot shall have a minimum area that meets or exceeds the minimum lot size established in Section 5.55 (A) and is exclusive of the panhandle portion of the lot.
- E. The body of the lot shall have a minimum width of two hundred ten (210) feet and a minimum depth of two hundred (200) feet.
- F. All structures shall be built within the body of the panhandle lot.
- G. The principal structure shall have a minimum front yard of one hundred (100) feet, rear yard of fifty (50) feet and a side yard of twenty (20) feet minimum each side.
- H. Any accessory structure shall have a minimum front yard of one hundred (100) feet, rear yard of twenty (20) feet and a side yard of twenty (20) feet minimum each side.

SEC. 5.575 REGULATIONS FOR OSDOD, PANHANDLE LOTS ARE PERMITTED SUBJECT TO THE FOLLOWING REGULATIONS:

- A. Panhandle lots shall not be "stacked" one behind the other relative to a street or road.
- B. The panhandle portion of the lots shall have a minimum frontage and continuous width of twenty (20) feet and a maximum frontage and width of forty (40) feet.
- C. The panhandle portion of the lots shall have a maximum length of five hundred (500) feet.
- D. The body of the lot shall have a minimum area that meets the minimum lot size established in Section 5.55 (B) and is exclusive of the panhandle portion of the lot.
- E. The body shall have a minimum width of one hundred twenty-five (125) feet and a minimum depth of two hundred (200) feet.
- F. All structures shall be built only within the body of the panhandle lot.
- G. The principal structure shall have a minimum front yard of fifty (50) feet, rear yard of fifty (50) feet and a side yard of twenty (20) feet minimum each side.

- H. Any accessory structure shall have a minimum front yard of fifty (50) feet, rear yard of twenty (20) feet and a side yard of twenty (20) feet minimum each side.

CHAPTER 5.75: RESIDENCE ZONE "R-1" REGULATIONS

SEC. 5.751 The regulations set forth in this chapter, or set forth elsewhere in the Zoning Code are the zoning regulations for Residence "R-1".

SEC. 5.752 PERMITTED USES: A building or lot shall be used only for the following purposes:

- A. Single family dwellings
- B. Home occupation, subject to the following conditions in addition to any other applicable standards of use of the applicable zoning district not otherwise permitted herein:
 1. Telework or telecommute-based activity shall not be considered as the operation of a home occupation subject to these standards.
 2. Home occupations shall be clearly incidental and subordinate to the principal residential use of the property.
 3. The use is compatible with other uses, maintains and preserves the character of the neighborhood and does not create a nuisance or detract from the residential function and tranquility.
 4. The home occupation shall be conducted within the dwelling.
 5. No commercial display of materials, merchandise, or goods shall be allowed to be stored outside of the primary residence.
 6. The external appearance and/or use of the structure(s) or lot in which the home occupation is conducted shall not be altered to indicate the presence of the home occupation.
 7. No expansion of existing off-street parking shall be permitted. Furthermore, no additional parking burden, due to the home occupation, shall be created.
 8. The use does not produce offensive noise, vibration, smoke, dust, odors, lighting, electrical interference, radioactive emission, environmental pollution, or other nuisances.
 9. Mechanical and electrical equipment used shall be only that normally used or found in a single-family dwelling; and, when performance rated shall be limited to normally domestic ratings rather than commercial or industrial.
 10. Not more than one person, who is not a resident of the premises, may participate in the home occupation as an employee or volunteer.
 11. The home occupation shall not serve as a location where multiple employees routinely meet or park prior to going to work off-site. Vehicle and equipment parking shall comply with Section 5.15 of the Clearcreek Township Zoning Resolution.

12. Products from internet based home occupations may be stored temporarily as inventory on the premises, during the normal course of said activity, inside the primary residence.
13. Delivery of materials necessary for a home occupation shall be limited to automobiles, light duty trucks (e.g. typical Fedex or UPS home delivery vans and trucks) or vans. Deliveries by heavy trucks shall be limited to two times per week.
14. Traffic generated by a home occupation shall not exceed the average daily volume normally expected for a residence in a residentially zoned neighborhood, which for the purpose of this section, equals up to ten (10) round trips per day.
15. Certain uses by their very nature, have a pronounced tendency to increase in intensity beyond the limits permitted for home occupations, thereby impairing the reasonable use and value of surrounding residential properties. Therefore, the following are prohibited uses or activities as home occupations:
 - a. Adult entertainment or sexually oriented business.
 - b. Ambulance service.
 - c. Day care (excludes plan "a" as defined in the Ohio Revised Code).
 - d. Health salon, gym or aerobic exercise studio.
 - e. Machine shop.
 - f. Medical and dental clinics and hospitals.
 - g. Motor vehicle towing, storage, and/or salvage business.
 - h. Nursing homes.
 - i. On-site, store front retail as a primary use.
 - j. Parking on, or dispatching from the site, any vehicle used in conjunction with the home occupation not complying with Section 5.15 of the Clearcreek Township Zoning Resolution.
 - k. Printing shop.
 - l. Restaurants or any other eating and/or drinking establishment.
 - m. Tourist home, bed & breakfast, motel, hotel, inn.
 - n. Trucking, hauling, moving, tow truck service, hearse service, limousine, and cab service.
 - o. Undertaking and funeral parlor.
 - p. Uses that require explosives or highly combustible or toxic materials.
 - q. Uses that require fire safety inspections, precautions or permits or other regulatory inspections or permits involving public health and safety.
 - r. Vehicle: sale, service, repair, body work, painting, detailing, upholstery and/or washing.
 - s. Veterinarian with boarding and/or surgical services, or

- t. Uses similar to the above listed use which would, at the discretion of the zoning inspector, result in nuisance factors as defined by this section. In those instances when the zoning inspector denies an application, or if the zoning inspector is uncertain of the appropriateness of a proposed home occupation, the matter may be appealed to the Board of Zoning Appeals (BZA) for interpretation.
- C. Community fire house, provided.
 - 1. Front yard, side yard and rear yard requirements for zone are met.
 - 2. Main building shall be at least minimum residential size.
 - 3. Enough area is set aside for future parking spaces, for a minimum of forty (40) cars, with a parking space provided at any given time for each member of the fire company. If an assembly hall is included in the building, additional parking spaces shall be provided in accordance with **Chapter 16, Zoning Code**.
- D. The sale of household goods, furnishings, clothing, toys, tools and books that have been used by members of the family occupying the premises may be advertised and sold on the premises, provided such sale is not held oftener than every six (6) months, for a period of three (3) days each sale; the items sold were not acquired for the sale.
- E. Publicly owned or operated properties including parks, playgrounds and community centers.
- F. Public forests and nature reserves including the usual buildings therefore.
- G. Private forests and nature reserves, including the usual buildings therefore where parking spaces are limited to ten (10) vehicles.
- H. Model homes: 1. Shall exist within a subdivision. 2. Shall be located along the primary ingress and egress to the subdivision. 3. Shall be declared to the Clearcreek Township Zoning Department prior to the use being established. 4. Shall be eliminated after ninety (90) percent of the parcels within that subdivision are under construction.
- I. A temporary or permanent building for protection from the weather elements shall be required for animals other than for two (2) dogs, which reside on parcels less than five (5) acres. This building shall be established as an accessory, and located in the rear yard and at least eighty-five (85) feet from every property line.
- J. Roadside Farm Market, offering for sale agricultural products of which at least fifty percent (50%) of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. Ample off-

street or off-road parking space shall be provided to take care of all vehicles visiting the roadside farm market. Parking spaces are limited to ten (10) vehicles. See Chapter 16 and 28.

K. Accessory buildings defined as either temporary or permanent and uses customarily incidental to any permitted uses, provided the primary use or structure has been established or constructed on the same lot.

L. Signage in accordance with Chapter 28.

SEC. 5.7524 CONDITIONAL USES: The following uses require a conditional use permit (CUP) pursuant to **Section 21.01(F)** of this Resolution.

A. Schools, public and private, from nursery schools through colleges having curriculum equivalent to public school curricula.

B. Religious institution, provided buildings shall be at least a minimum residential size.

C. Hospital and institutions of an educational, religious, charitable or philanthropic nature, provided the site upon which such uses are located shall contain at least five (5) acres and that such buildings shall not occupy over ten percent (10%) of the total site area.

D. Rest home, nursing home or convalescent home, provided that such buildings shall be located upon a site of five (5) acres or more and shall not occupy more than ten percent (10%) of the total site area.

E. Cemeteries, provided that any cemetery shall contain an area of twenty (20) acres or more.

F. Telecommunication tower: In those instances where a telecommunication tower is made subject to this resolution pursuant to section 519.211 Ohio Revised Code (ORC) and as the same may, from time to time, be amended, said telecommunication tower shall be located, erected, constructed, reconstructed, changed, altered, or enlarged in accordance with Section 21.01(F)(2) & Section 22.05 of the zoning resolution.

G. Farm Based Tourism

H. Clubs, including country clubs, swimming and tennis clubs, provided that any structures, except fences, shall be at least fifty (50) feet from property lines, and any parking areas necessary to the operation shall be at least two hundred (200) feet from any adjoining residential zone; the setback from street or streets shall be the same as for residences.

I. Recreation area, not for profit, private or charitable, provided a minimum of thirty (30) acres is used and fenced on all sides.

J. Private forests and nature reserves, including the usual buildings therefore with parking spaces for more than ten (10) vehicles.

K. Signage in accordance with Chapter 28.

SEC. 5.753 HEIGHT REGULATIONS: No building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height.

SEC. 5.754 PRINCIPAL STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:

- A. There shall be front yard having a depth of not less than fifty (50) feet, provided, however, no front yard depth shall be required to exceed the average of the minimum depths of the existing front yards on the lots adjacent on each side, if each of such lots are within the same block and within one hundred (100) feet of a the building under consideration. If an average can not be mathematically determined based upon the above process, then the zoning inspector shall expand the area under review. The expanded area shall include the front yard setbacks of the building(s) across the street and within one hundred (100) feet of the building under consideration.
- B. For a lot that has frontage on more than one street, the required front yard shall be provided on all streets.
- C. Side yard: There shall be a side yard of ten (10) feet minimum on each side, except for lots with more than one (1) front yard, in which case the minimum side yard shall be ten (10) feet on the side, if any, not fronting on a street.
- D. Rear yard: There shall be a rear yard having a depth of not less than forty (40) feet, except for lots with three (3) front yards, in which case the minimum rear yard shall be ten (10) feet.

SEC. 5.7545 ACCESSORY STRUCTURE, REQUIRED YARDS FOR LOTS EXCEPT PANHANDLE LOTS:

- A. Front yard shall conform to 5.754 (A) and 5.754 (B).
- B. Side yard shall conform to 5.754 (C).
- C. Rear yard shall be a minimum of ten (10) feet.

SEC. 5.755 INTENSITY OF USE: Every lot or tract, except a panhandle lot, shall have a minimum continuous frontage and width of not less than one hundred (100) feet at any point, except on a cul-de-sac, in which case it shall have a minimum continuous frontage and width at any point of at least fifty (50) feet, and a minimum width of one hundred (100) feet at the minimum building setback line and:

- A. Lots or parcels proposed as building sites that are connected to a central sanitary sewage system approved by the Warren County Sanitary Engineer and the Ohio Environmental Protection Agency shall contain not less than one half (1/2) acre exclusive of: any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements other than the required side and rear lot line drainage easements required in the Warren County Subdivision Regulations for a plat, high pressure gas pipeline easements and railroad easements.
- B. Lots or parcels proposed as building sites that are not connected to a central sanitary sewage system and are otherwise approved by the Warren County Combined Health District and/or the Ohio Environmental Protection

Agency for individual onsite wastewater disposal system shall contain not less than one (1) acre exclusive of: any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements other than the required side and rear lot line drainage easements required in the Warren County Subdivision Regulations for a plat, high pressure gas pipeline easements, and railroad easements.

C. If a preliminary plat was approved with more restrictive zoning regulations than those in place at the time of the final plat submittal, the least restrictive regulations will be applied at the time of zoning review.

D. The maximum lot depth to width ratio shall be 5:1. This requirement applies to lots less than five acres in size. Panhandle lots regardless of size are exempt.

ADVISORY NOTE: For the residential lots utilizing on-site sewage disposal systems, lots larger than the Zoning Code minimum of one (1) acre may be required by the Warren County Combined Health District contingent on the suitability of soils present on the lot.

SEC. 5.756 **MINIMUM SIZE:** The minimum size of any single family dwelling, exclusive of porches, garages and breezeways, shall be one thousand two hundred fifty (1250) square feet of floor space.

SEC. 5.757 **PANHANDLE LOTS** are permitted subject to the following regulations:

A. Panhandle lots shall not be "stacked" one behind the other relative to a street or road.

B. The panhandle portion of the lots shall have a minimum frontage and continuous width of twenty (20) feet and a maximum frontage and width of forty (40) feet.

C. The panhandle portion of the lots shall have a maximum length of five hundred (500) feet.

D. The body of the lot shall have a minimum area of one and one-half (1 1/2) acre exclusive of the panhandle portion of the lot, any road or street right-of-way as shown on the Warren County, Ohio, Official Thoroughfare Plan, waterways, wetlands, one hundred (100) year flood plain, drainage easements, high pressure gas pipeline easements and railroad easements.

E. The body of the lot shall have a minimum width of one hundred twenty five (125) feet and a minimum depth of two hundred (200) feet.

F. All structures shall be built within the body of the panhandle lot.

G. The principal structure shall have a minimum front yard of fifty (50) feet, rear yard of fifty (50) feet and a side yard of twenty (20) feet minimum each side.

H. Any accessory structure shall have a minimum front yard of fifty (50) feet, rear yard of twenty (20) feet and a side yard of twenty (20) feet minimum each side.

CHAPTER 10: GENERAL BUSINESS ZONE "B-2" REGULATIONS

SEC. 10.01 The regulations set forth in this chapter, or set forth elsewhere in the Zoning Code, are the zoning regulations for General Business Zone "B-2".

SEC. 10.02 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 any residence zone or Neighborhood Business Zone "B-1".
- B. General automobile repair, provided all vehicles and vehicle parts are kept inside a completely enclosed building, or the vehicles are located in an impound lot. An impound lot is permitted on part of a property, which is completely contained within an area which is surrounded by a solid fence or wall. The fence or wall shall be a minimum of six feet in height. The location of this fence or wall shall take the topography of the site into consideration to maximize the screening effect to other properties and/or the public right-of-way. The uses permitted in a junkyard shall be prohibited in an impound lot.
- C. Warehouse, farm implement and auto sales, animal hospital, vet clinic, laundries, plumbing and heating, printing shop, lumber yard and building materials, paint shop, carpenter shop, sheet metal, wholesale business and bakery. All machinery shall be enclosed within a building. Commercial and vet clinic kennels provided all animals are kept inside buildings with outside walls and roof equivalent in sound reduction to an eight (8) inch concrete block wall.
- D. Bar, Brewpub, Drive-In Restaurant.
- E. Hotels and motels, theaters and drive-in movie theaters: for a drive-in theater the screen shall be so located as not to be visible from the road or street and shall be set back at a distance of not less than two hundred (200) feet from the established right-of-way of any highway and a distance of at least two hundred (200) feet from the property line and loudspeakers shall be permitted only for the occupants of the theater and if they do not create a nuisance or disturb the peace.
- F. Commercial baseball fields, golf, tennis, skeet, trapshoot, commercial fishing lakes, bowling alleys, swimming pools, skating rinks or similar recreational uses and facilities: Buildings, pools and other enclosures shall be one hundred (100) feet from any Residence Zone.
- G. Any other business use which is of a general character of the classes of business permitted above, as determined by the Clearcreek Township Zoning Inspector.
- H. Those businesses expressly prohibited in Zone "M-1" and "M-2" are prohibited in Zone "B-2".
- I. Signage in accordance with Chapter 28.

SEC. 10.025 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. 10.03 Height: unlimited, except for each foot over forty-five (45) feet, the front, side and rear yard shall be increased by one (1) foot, and there shall be adequate fire extinguishing facilities as approved by the fire organization.

SEC. 10.04 Yards: The minimum lot size is the same as for Residence Zone "R-1":

A. Front yard: The front yard shall be the same as required for Zone "B-1".

B. Side yard: The side yard shall be the same as required for Zone "B-1".

C. Rear yard: The rear yard shall be the same as required for Zone "B-1".