

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

**Report Date:** March 30, 2023

**Hearing Date:** May 1, 2023

**Applicant:** William Brian Cobb (Attorney in Fact – POA) for Wilbur L. Woolard (owner)

**Requested Action:** Zone Change Request from Light Industrial Zone “M-1” to Open Space Rural Residence Zone “OSR-1”.

**Current Use:** Single Family Dwelling, Agriculture.

**Attached:** Location Map, Application, Deed, Copy of Power of Attorney, Survey of Woolard Property, Clearcreek Township 2005 Master Land Use Plan Maps: 4, 6, 10 and 11.

**Location of Request:**

The parcel is identified as 738 W SR 122, parcel number 08-03-300-0020 and account 0401219. The property is located in Section 3, Town 3, and Range 4 in Clearcreek Township. The zoning classification is Light Industrial Zone “M-1”. The zone change request is from Light Industrial Zone “M-1” to Open Space Rural Residence Zone “OSR-1”. The request is 45.175 gross acres in size.

**Applicant’s Reasons for the Application:**

Applicant states: “The subject parcel, zoned M-1 and being 45.175 acres, is adjacent to parcel 080330001 which is 43 acres and is zoned OSR-1. Both of these adjacent properties are owned by Wilbur L. Woolard and the currently used in concert with one another consistent with OSR-1 zoning. Applicant and Owner believe it makes sense if the adjacent properties enjoyed the same zoning classification OSR-1. This would be especially true if, in the future, the Owner decides to consolidate the two tracts into on Auditor’s parcel with the same zoning classification OSR-1. In addition, the Applicant and Owner believes if the subject parcel is zoned OSR-1, it would be consistent with the Township’s land use plan previously adopted.”

**Zoning History:**

- In 1973, the property was classified as Light Industrial Zone “M-1”.

**Background for the Request:**

This is a straight zoning request. A use is not required. A lot layout is not required. A net density plan is not required. Open space is not required.

In Clearcreek Township agricultural uses are permitted uses in all zoning classifications, provided the use meets the exempt classification as outlined in Section 5.08 of the Clearcreek Township Zoning Resolution:

**SEC. 5.08** Nothing contained in this Code shall prohibit the use of any land for agricultural purposes or the construction or use of any building or structure incidental to such agricultural use, and no zoning certificate shall be required for any such agricultural use, building or structure.

The current zoning is Light Industrial Zone “M-1” which establishes the primary use of the parcel to be industrial (See “M-1” Regulations below). The existing residential dwelling is considered a legal non-conforming use.

The request is to rezone the property to Open Space Rural Residence Zone “OSR-1” which would allow the owner to continue the existing residential use and have a consistent two (2) acre minimum lot size (See “OSR-1” Regulations below) with the adjacent parcel to the west that is also owned by Wilbur L. Woolard (820 W SR 122, 43 gross acres in size).

**Adjoining Zoning Classifications and Current Uses:**

- North:
  - Open Space Rural Residence Zone “OSR-1” (Single Family Dwelling and Vacant Land).
- East:
  - Open Space Rural Residence Zone “OSR-1” (Single Family Dwelling).
  - Residence Zone “R-1” (Single Family Dwelling).
- South:
  - Light Industrial Zone “M-1” (Vacant Land).
- West:
  - Open Space Rural Residence Zone “OSR-1” (Single Family Dwelling and Vacant Land).

**2005 Master Land Use Plan Information:**

- Map 4 - Identifies the property to be outside of all Sewer Service Areas.
- Map 6 – Identifies the road as a Rural Collector.
- Map 10 Identifies the property to be in 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.
- Applicable Goals, Objectives and Policies:
  - **Related to Desired Community Character:**
    - GOAL:** Retention of appearance and feel of rural character in Clearcreek Township.
    - Objective:** Modify development regulation and approval process to assure retention of rural character.
    - 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.
      - Encourage the retention of large agricultural tracts throughout the Township (bequests, fee simple, purchase of development rights, agricultural easements). Large tracts help to distinguish the Township from adjoining jurisdictions.

These tracts help to break up the view from the road right-of-way and perpetuate a sense of place that is desirable.

- 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).

**GOAL:** Establish a balance between development and growth management which will protect the natural environment, allow for the maximum opportunity to pursue recreational activities and the enjoyment of the benefits of an integrated open space.

**Objective:** Encourage and promote an open space system capable of providing the amenities of the natural environment, offering relief from urbanization.

**POLICIES:**

- Identify actively farmed prime agricultural land. Establish system to protect it from unwanted development (bequests, fee simple, purchase of development rights, agricultural easements).

- **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:** 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.

**POLICIES:**

- Encourage a logical pattern of residential development outside of the Urban Service Areas that is a rural density.

### **Zoning Information for Current and Requested Zoning Classifications:**

#### **CHAPTER 3: DEFINITIONS**

**SEC. 3.027** **Agriculture:** The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and accessory uses such as packing, treating, storing or selling produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

#### **CHAPTER 11**

##### **LIGHT INDUSTRY ZONE "M-1" REGULATIONS**

**SEC. 11.01** The regulations set forth in this section, or set forth elsewhere in the Zoning Code, are the zoning regulations for Light Industry "M-1".

**SEC. 11.02** 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. Creamery, bottling, alcohol bottler, ice manufacturing and cold storage plant.
- B. The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils.
- C. The manufacturing, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastic, metals or stone, tobacco, wax, yarns and wool.
- D. Manufacturing of musical instruments, novelties, molded rubber products and molded plastic, but excluding production of plastic compounds.
- E. The manufacturing or assembly of electrical appliances, instruments and devices.
- F. Manufacturing of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired by electricity or gas.
- G. Laboratories - experimental, film or testing.
- H. The manufacturing and repair of electric signs, advertising structures, light sheet metal products, including heating and ventilating equipment.
- I. Blacksmith, welding or other metal fabricating shop excluding punch presses over fifty (50) tons rated capacity, drop hammers and the like.
- J. Foundry casting of lightweight, non-ferrous metals or electric foundry not causing noxious fumes or odors.
- K. Enameling, lacquering or japaning.
- L. Crematory, if located not less than two hundred twenty (220) feet from any residence zone.
- M. Concrete mixing, concrete products manufacturing.
- N. Sawmill and planing mill.
- O. Manufacturing of wood products not involving chemical treatment.
- P. Circus, race tracks and courses for the conduct of seasonal or periodic racing meets of aircraft, horses, dogs, automobiles, motorcycles, go-carts, drag strips and the, provided structure or buildings for same shall be at least five hundred (500) feet from any residence zone.
- Q. Inflammable liquids, underground storage only, not to exceed twenty five thousand (25,000) gallons, if located not less than two hundred (200) feet from any residence zone.
- R. Truck depots
- S. Any other similar use.
- T. Signage in accordance with Chapter 28.

**SEC. 11.03** Height: The height regulations are the same as for Zone "B-2".

**SEC. 11.04** Yards:

- A. The front yard shall be fifty (50) feet.
- B. Side and back yard: None except for a building adjoining a residence zone, in which case the side and back yard requirements shall be one hundred (100) feet.

**SEC. 11.05** Minimum lot size: 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.

## **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:**

- 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.