

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

Date: March 16, 2020

Applicant: Matthew Agnew agent for Brett Scott

Property Identification: 1555 E SR 73

Acreage of Request: 1.976 acres

Current Zoning of Requested Area: Neighborhood Business Planned Unit Development “B-1PUD”

Requested Action: Non-Residential Planned Unit Development “NR-PUD”

Attached: Application, Soil Maps, Staff Updated PUD Concept Plan, Trustee Resolution 2709

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.

Agent’s reasons for the application:

“The purpose of this application is to re-zone the property to allow the use of the building as a spirits distillery and retail store.

The reason we have selected this area to open our business is due to the prime location and market opportunities of our industry. Opening up a craft spirits distillery here in Clearcreek Township, offers this area something unique that is not currently available. The next closest distillery is 40 minutes North and is not done in the same style of either marking or suite of products what we will be offering.

This location will offer our business access to customers traveling through Springboro, Centerville, Lebanon, and Waynesville via main roadways such as 73 and 48, providing us with the appropriate level of traffic for our needs and ultimate success. We will also be in view of traffic during events at the rodeo, Sauerkraut festival, and other seasonal events.

Our goal is to be the leading edge of a booming market in craft spirit distilleries and to bring a unique experience, destination, and top quality product to market, making this location a staple of growing business and customer attraction.

The following information is specified/clarified: The list of uses permitted within the PUD are specified: BJ’s Garage – Automotive mechanic shop. Allstate Insurance Agency. Holistic Vape Shop – Specializing in vape equipment and oils. Distillery Building A – This unit will be used primarily as our office and storage facility. There currently is a false wall separating building A from building B which we will be modifying to fit our needs. Please see Visio diagram for current and future layouts. Distillery Building B – This unit will be used as the actual distillery where the Spirits will be made as well as a retail store where promotional goods will be sold. Examples include

but are not limited to: Clothing such as t-shirts, sweatshirts, hats; along with personalized glassware, home decore, and other misc. items.”

Background on the “B-1PUD” to “NR-PUD” request:

1. The applicant is asking for the approved use list (Trustee Resolution 2709) to be expanded to include spirits distillery. The Neighborhood Business “B-1” list of permitted uses doesn’t include the distilling of alcohol that is found in a brewpub (General Business “B-2”) or alcohol bottler (Light Industry “M-1”).
2. Master Land Use Plan:
 - a. Located within the commercial node of State Route 48 and State Route 73
 - b. **OBJECTIVE:** Establish areas of commercial activity, ensuring a convenient, safe and pleasant environment in meeting the retail and business needs of Township residents.
 - c. **POLICIES:**
 - i. 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.
 - ii. Encourage commercial growth equal to what the market will bear. Over-commercialization should be avoided.
 - iii. Encourage cluster-type development for commercial areas. Establish an overlay for these clusters to further encourage use, scale and materials.
 - iv. Avoid strip commercial development and "spot zoning."
3. Zoning History for Property:
 - a. In 1973 the property was classified as Rural Residence Zone “R-1”.
 - b. In 1978 the property was rezoned to Neighborhood Business Zone “B-1”.
 - c. 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.
 - d. 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.
4. Zoning Classifications for Adjoining Properties:
 - a. North of the property the zoning classifications are General Business “B-2” and General Business Planned Unit Development “B-2PUD”.

- b. West of the property the zoning classification is Neighborhood Business “B-1”.
- c. South of the property the zoning classification is Residence Zone “R-1”.
- d. East of the property the zoning classifications are Neighborhood Business “B-1” and Neighborhood Business Planned Unit Development “B-1PUD”.

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 aerial.

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

Staff Comments: The information has been submitted, see attached documents.

- 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:

This site has four existing buildings, parking, signage and a leachfield. The agent is requesting an expansion of use to allow a distillery to be operated inside the existing shell of two buildings. A conceptual bubble diagram was provided to help facilitate discussion. The agent’s first objective is to rezone the property. Since there are several tenants with competing needs, the submitted request is to attempt to accommodate the existing uses, previous PUD conditions and determine how this use fits within the PUD. This would be subject to additional review and discussion at the time a Stage 2 PUD submission.

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

Staff Comments: The information has been submitted, see topography plan. The topography ranges from 966’ to 984’.

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

Staff Comments: The information has been submitted, see concept PUD plan/aerial, Warren County Auditor's Webpages, updated staff concept PUD plan.

There is 9,598 sq. ft. (.22 acres) of existing buildings on the site. An additional 7,200 sq. ft. (.17 acres) of buildings is anticipated with Trustee Resolution 2709. This would bring the total buildings to 16,798 sq. ft. (.39 acres) See details below and staff updated bubble diagram:

- *Building 1: Constructed 1939. 1,460 sq. ft. in size.*
- *Building 2: Constructed 1984. 2,350 sq. ft. in size.*
- *Building 3: Constructed 1985. 3,287sq. ft. in size.*
- *Building 4: Constructed 1987. 2,501sq. ft. in size.*
- *Future Building 5: Approved by Trustee Resolution 2709. Maximum of 7,200 sq. ft.*

- 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 bubble concept plan/aerial, updated staff bubble concept.

- *All parking and access roads are private. This existing area is 39,204 sq. ft. (.90 acres).*
- *Future parking areas are specified behind Building 3. The area is specified for 30 parking spaces but is shown to occupy approximately 3,500 sq. ft. (.08 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. The leach field is projected to be 4,791.60 sq. ft. (.11 acres). No expansion of the leach field has been projected as part of this request.

- 5) A calculation of residential net density and/or net floor area ratio.

Staff Comments: This property is proposed to be non-residential, thus a residential net density is not required. The request is to only expand the permitted uses, it doesn't seek to expand or establish additional structures beyond the previous stage 1 approval.

Since there wasn't a request for additional square footage of structures, a net floor area ratio was not calculated.

- 6) The interior common open space system with acreage specified.

Staff Comments: The information has been submitted, see concept PUD plan/aerial, updated staff concept PUD plan.

- *The diagram shows the open space acreage to be 32,495.76 sq. ft. (.746 acres). However future parking and the future warehouse are located in the depicted area. Staff calculates that 10,700 sq. ft. (.25 acres) should be removed from the area because it doesn't qualify as open space. The new total is 21,605.76 (.496 acres) of open space.*
- *The minimum acreage requirement per Section 13.09 of the Clearcreek Township Zoning Resolution is 21,518.64 sq. ft. (.49 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: Site is outside of floodplain. The information has been submitted, see soils map.

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

Staff Comments: This isn't applicable.

- 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 application.

Agent states:

"ODOT has stated that unless the distillery will see more than 60 vehicles, traveling in an out of the parking lot, per hour, they are in agreement with our proposed plan. We do not expect to see 60 vehicles, per hour, in and out of the parking lot. For deliveries and pick-ups, there will also be no need for any vehicle larger than a small box truck.

Warren County Health Department, along with their Environmental Impact Division, has stated that they approve of our plan which specifically will include: We will not be selling food. All waste disposal will be collected and delivered to local farms for use of animal feed. We also plan an outreach program to local colleges such as Wilmington to donate our waste to their agricultural department. Our waste is also not expected to exceed a single 55-

gallon barrel per week. We will not be using large amounts of city water as we will have natural spring water delivered and stored onsite as part of our recipe. The only water being used that will not be delivered would be for general cleanup. All water run-off will also be minimal, and a trench drain with filters and collecting drops will be installed to prevent any solid material from entering the drainage system.”

- 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: Not required because uses are non-residential.

- 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.

Staff Comments: The applicant hasn't provided information for this item.

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

Staff Comments: The applicant hasn't provided information for this item.

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

Staff Comments: The applicant hasn't provided information for this item.

- 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.

The applicant states: “Fighting Brothers Distillery – Expansion Plan/Misc Notes: Currently, our goal is open in our current facility and develop a strong local business that will bring more and more people to follow our brand and consume our product. However, we do not want to stop there. Our goal, spread out over multiple phases over multiple years, would be to engulf the entire parcel of land for our use as a distillery and retail needs. Our expansion goals would include but are not limited to: Expansion to the parking situation appropriate to our current growth needs. (additional parking in rear). A warehouse on site to store additional products and supplies. Restaurant and/or pub style facility in the adjoining building (most likely BJs garage). Retail gift shop (maybe the insurance building) if current retail space would need to be turned into a larger area for distilling the product. We have the drive and the ambition to expand our brand, which in turn, will bring additional customers and revenue to surrounding businesses. We have also put in place a marketing strategy, a social media plan, and a distribution strategy (these can all be provided if requested). We are just waiting to clear some of the initial approvals before we “pull the trigger”. “

Staff Comments: The applicant has not provided a projected timeline for their plan.

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 in the Commercial classification. In 2004 the property was rezoned from Neighborhood Business "B-1" to Neighborhood Business Planned Unit Development "B-1PUD". The request is to expand the permitted uses allowed in the Planned Unit Development.

(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: The applicant has identified the existing uses on the site and added a distillery use. Trustee Resolution allowed all Neighborhood Business "B-1" uses and a warehouse/storage use with a maximum size of 7,200 sq. ft.

b) The general location of such uses is specified.

Staff Comments: The existing and proposed uses have been specified in the narrative and on the P.U.D. Plan.

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

Staff Comments: The agent hasn't requested any modifications to the standards.

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

Staff Comments: The agent is requesting a more intensive permitted use for the property. The distillery use will occur in existing buildings.

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

Staff Comments: This has been specified on the P.U.D. Plan. A total of .496 acres of open space has been proposed, 25.10%. Per Section 13.09 of the Clearcreek Township Zoning Resolution, a minimum of 25% or .49 acres of open space is required.

(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.

Staff Comments: Trustee Resolution 2709 should serve as a guide for conditions for the PUD.

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.