



PLANNING COMMISSION STAFF REPORT

FOR CONSIDERATION BY PLANNING COMMISSION ON SEPTEMBER 22, 2020

TATE TOWNSHIP ZONING CASE #1446GE

- APPLICANT:** Jacob Carter
Franklin Land Association
9010 Overlook Blvd.
Brentwood, TN 37027
- OWNER:** Tate Monroe Water Association
2595 State Route 232
New Richmond, OH 45157
- REQUEST:** Requesting to rezone a 2.00 acres (+/-) portion of parcel 323011D023 consisting of a total of 70.95 acres (+/-) from A-Agricultural District to C-1 Commercial District.
- LOCATION:** The subject property is located just south of the convergence of SR 222 and SR 232. The subject property is located 1,250 feet east of the Monroe/Tate Township line. The property has no physical address at this time.
See the attached location map for further clarification.
- ZONING:** Current Zoning: A – Agricultural District

North: A – Agricultural District
East: A – Agricultural District
South: A – Agricultural District
West: A – Agricultural District
See the attached zoning map for further clarification.
- LAND USE:** The property is currently vacant farmland and is agricultural in nature. The existing parent parcel 323011D023 is intersected by SR 222 and SR 232. The surrounding properties along SR 222 and SR 232 appear to share the same agricultural use with several rural residential properties in close proximity.

HISTORY: Currently, no project history exist for the property involved in this particular petition for zoning map amendment.

RELATIONSHIP TO TOWNSHIP ZONING & FUTURE LAND USE:

It appears this request is compatible with the permitted use regulations under C-1 Commercial District within the Tate Township’s Zoning Resolution (Article 6, Section 5).

Section 5. Commercial “C-1” District

A. Uses Permitted

- 1. Any local retail business such as grocery, fruit or vegetable store, drug store, carryout, drapery and curtain shop and the like.*
- 2. Bakery, provided all products are sold at retail on the premises.*
- 3. Personal services uses, such as barber shops, beauty shops, beauty parlor, photographic or artist studios, dressmaking, tailoring, shoe repair, repair of household appliances, dry cleaning and pressing and receiving stations for personal services.*
- 4. Restaurant, soda fountain, lunchroom; but excluding drive-in and “pick-up” eating drinking establishments.*

B. Uses Permitted as Conditional Uses

The following uses shall be considered conditional uses and will require written approval of the Board of Appeals.

- 1. Neighborhood shopping centers and other groupings of five or more commercial, retail and/or service establishments in building(s) and on a lot under single ownership. The conditions under which the Board may permit neighborhood shopping centers are as follows:*
 - a. Access drives may not be placed closer than one hundred (100) feet to street intersections nor less than two hundred (200) feet from another access way to the same property.*
 - b. Driveways and parking areas shall be graded for proper drainage and surfaced with an asphaltic or Portland Cement binder pavement so as to provide a durable and dustless surface.*
 - c. In addition to the off street automobile parking and storage requirements, for retail business as established in this Resolution, there shall be provided ten (10) spaces for each ten thousand (10,000) square feet of gross floor area of building(s) on the lot or in the neighborhood shopping center.*
 - d. Each required parking space shall be a minimum often (10) feet in width and twenty-five (25) feet in length exclusive of access drives and/or aisles.*
 - e. When a permitted neighborhood shopping center borders on a district zoned for residential uses, there shall be a buffer screen to provide adequate site, noise and air pollution barrier between me neighborhood shopping centers and any adjacent residential district*

Depressions, raised berms, landscaping, fencing or any combination thereof are satisfactory methods to create such a barrier. Where a landscape buffer screen is used, and evergreen planting screen shall be used to provide an adequate barrier. The plant material used shall be a minimum height of four feet at the time of planting and shall be planted and arranged in order to provide an immediate effect. Deciduous and semi-deciduous plant material may be used with evergreens to provide an immediate effect and accent in color. In all cases where plant material is used as a buffer screen, the plants shall be placed in such a manner that the mature growth of such plants is a minimum distance of three (2) feet from said property lot line or public right-of-way.

C. Uses Prohibited

1. Any use which is of storage, warehousing or manufacturing nature.
2. Storage of flammable liquid above ground in excess of six hundred gallons.
3. Coal yards, lumber yards, junk yards.
4. Any other uses not specifically permitted by this section.

D. Dimension and Area Regulations for Lots and Structures

This regulations on the dimensions and areas for lots and structures are set form in the Schedule of Dimensions and Area Regulations for in Appendix A. The applicable regulations shall be observed in the Commercial “C-1” District.

Appendix A:

| District | Max Height | Min Lot Size (Sewer) | Min Lot Size (No Sewer) | Max (%) Lot Area Covered by Building | Min Lot Width | Min Front Yard Depth | Min Side Yard | Min Rear Yard |
|----------|------------|----------------------|------------------------------|--------------------------------------|---------------|----------------------|---------------|---------------|
| C-1 | 45' | None | As required by Public Health | None | None | (3) 60 / 35 | (4) None / 40 | 15 |

- (3) Front yard of 60 ft. depth shall be required for all lots fronting on Federal, State or County Highways; 35 ft. minimum shall be required for all lots fronting on Township roads.
- (4) No side yard shall be required except when commercial lots abuts a residential zoned lot, in such cases a 40 foot minimum side yard is required.

SITE ACCESS:

Site access will be provided to the subject property via a proposed curb cut onto SR 222 with on-site parking to be provided along the east and south sides of the proposed building. On September 9, 2020 staff requested The Ohio Department of Transportation (ODOT) to review Tate Township Zoning Case 1446GE. On September 17, 2020 ODOT responded with no comments to the overall site plan and the proposed drive access point.

DEVELOPMENT CHARACTERISTICS:

The proposed zoning map amendment consists of a 2.00 acres portion of the 70.95 +/- acre site to be rezoned to C-1 Commercial District, with the remaining 68.95 +/- acres to remain A – Agricultural District. The applicant has submitted a site plan that references a

9,100 sq. ft. variety store as well as on-site water detention and retention. Proposed signage has also been shown where two pylon signs have been located just outside the existing SR 222 right-of-way.

STAFF ANALYSIS:

Despite the applicant having adequate acreage proposed for rezoning, Staff recognizes several issues regarding the application and the nature of this particular zoning map amendment. Specifically, the applicant has not provided any acceptable justification for the proposed map amendment other than the desire to construct a variety store on this particular property in Tate Township. A convenience store, or similar uses, are permitted within the C-1 Commercial District. However, it is the opinion of Staff that such uses generally conflict with the rural character of the community, and more specifically, with the adjoining agricultural properties. Finally, the proposed map amendment is an instance termed “spot-zoning”, since no other commercial or high intensity districts can be found in the immediate vicinity.

Spot Zoning: “the process of singling out a small parcel of land for a use classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners.” Anderson's American Law of Zoning, 4th Edition, § 5.12 (1995).

Given the rural character of this area, the potential negative impacts to surrounding residential and agricultural properties, the overwhelming potential of continued haphazard, piecemeal, and unplanned developments to occur, and given that several other more commercially-oriented and zoned areas exist in the township where this type of use would be more suited, staff would recommend denial of this request as it could set a dangerous precedent for future zoning requests throughout Tate Township.

Clermont County Community & Economic Development Comments:

1. The proposed zoning map amendment conflicts with the rural nature of the area and does not mesh well with the established residential and rural character.
2. If the property were to be develop as commercially oriented uses, low intensity uses should be considered and should be encouraged through a public forum and adoption of a Growth Management Plan that references this area of the Township as a commercial growth area. As of today no Growth Management Plan details this area for commercial development.
3. The proposed zoning map amendment is a clear instance of “spot-zoning” in that the proposed use constitutes a comparatively small area and is significantly different and divergent from adjoining zoning district and land use.

The Clermont County Engineer’s Office Comments:

1. The applicant must secure necessary right-of-way and access permit(s) from ODOT for any access to SR 222.

The Tate Monroe Water Association Comments:

1. No comments have been received at this time.

The Clermont County Public Health Comments:

1. The applicant shall show a replacement area for the proposed septic location.
2. No scale has been provided on the attached site plan, which has made it difficult to confirm if the proposed septic area conforms the appropriate dimensions.

The Ohio Department of Transportation (ODOT) Comments:

1. No comments or objections to the site plan and proposed drive access point.

STAFF RECOMMENDATION:

Based upon Staff Analysis, move to **RECOMMEND DENIAL** of Tate Township Zoning Case 1446GE to rezone a portion of parcel 323011D023 consisting of a total of 2.00 acres (+/-) from A- Agricultural District to C-1 Commercial District.