



# PLANNING COMMISSION STAFF REPORT

FOR CONSIDERATION BY PLANNING COMMISSION ON MAY 25, 2021

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## JACKSON TOWNSHIP CASE 2021-01

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- APPLICANT:** Gregory Hehemann  
MCC Cincinnati, LLC  
2848 US 50  
Batavia, OH 45103
- OWNERS:** MCC Cincinnati, LLC                      Gregory Hehemann  
2848 US 50    1951 US 50  
Batavia, OH 45103                                  Batavia, OH 45103
- REQUEST:** Requesting to rezone two parcels 142306A045 & 142306E083 consisting of 19.39 acres from Agricultural “A-1” District to Commercial “C-1” District.
- LOCATION:** The subject properties are located on the north side of US 50 +/- 2500 feet east of Newtonsville Hutchinson Road and US 50. The Stonelick Township boundary is adjacent to the west.
- ZONING:** Current Zoning: Agricultural “A-1” District
- North:                      Agricultural “A-1” District  
East:                        Agricultural “A-1” District  
South:                     Agricultural “A-1” District  
West:                      Agricultural “A-1” District
- LAND USE:** The existing land use is an outdoor recreational motorsports track and facility while currently constructing a large-scale parking lot.
- The surrounding properties along US 50 are residential and agricultural with the property to the north being Cedar Trace Golf Club.

**HISTORY:**

As discussed with Josh Shaw, Jackson Township Zoning Administrator. Parcel 142306A045 previously was known to have had a conditional use permit for a plastics factory back in the late 1990s. Jackson Township has no copy of the conditional use or any other records of when the development of the property had been discussed at a public hearing.

Clermont County Geographic Information Systems (GIS) aerial photography had been flown on a three (3) year interval during 2006-2009. Staff can determine that the property had changed in use during this time. The site was once primarily agricultural in 2006, but the motorsports track had been paved by 2009. Jackson Township has no copy of any zoning map amendment case, conditional use permit, or any other records of when this use had been discussed at a public hearing.

In 2020 evidence of additional development indicates expansion of a large parking lot onto the adjacent parcel 142306E083. This new expansion and continued development continued without action by the Township Zoning Commission nor the Township Board of Trustees.

In 2021 the facility has continued to expand to the west onto Parcel 302914F121 (*Stonelick Township*).

**RELATIONSHIP TO TOWNSHIP ZONING & FUTURE LAND USE:**

It appears this request for a Map Amendment is compatible as proposed for Commercial “C-1” District in the Township’s Zoning Resolution (Article 8, 850).

The proposed development may require conditional use permits for additional uses that may be requested in the future under (Article 8, 853) i.e. C and D.

If approved, the proposed development may require variance on several of the required setbacks under (Article 8, 854) i.e. A, B, C, and E

*850 Commercial “C1” District*

*The regulations set forth in this Section, or set forth elsewhere in this Resolution, when referred to in this Section, are the District Regulations for the Commercial “C1” District.*

851 Intent

*The purpose of the Commercial District is to establish areas with adequate facilities and access to major transportation corridors for light manufacturing, wholesale and community retail businesses which would not be incompatible with the overall, rural atmosphere of Jackson Township.*

852 Principal permitted uses

- A. *Establishments, including sales lots, for the display, hire, sale, and major repair of automobiles, trucks, trailers, and farm implements. All operations other than display and sales shall be within an enclosed building.*
- B. *Trucking and truck terminals, including storage warehouses and transfer facilities.*
- C. *Motels, provided that access is from a state or federal highway.*
- D. *Full service laundry and dry cleaning establishments.*
- E. *Lumber and building material sales yards, millwork and prefabrication; building material sales, storage yards, and woodworking plants.*
- F. *Appliance, small engine and small tool repair.*
- G. *Commercial food processing and packaging.*
- H. *Agricultural feed mill and related product sales.*
- I. *Machine shops and light manufacturing of precision instruments.*
- J. **Commercial baseball fields, swimming pools and similar open air recreation uses, and structures and facilities if located at least one hundred and fifty (150) feet from any residence.**
- K. *Contractor equipment storage yard or plant such storage yard and plant shall be located at least two hundred (200) feet from Residential Districts and one hundred (100) feet from adjoining property lines.*
- L. *Drive-in, eating and drinking establishments, summer gardens and roadhouses, including entertainment and dancing.*
- M. *Bar, cocktail lounge, night club, billiard and pool halls, bowling alleys, dance hall, roller skating rink and similar establishments.*
- N. *Miniature golf courses and golf driving ranges.*

853 Conditional uses requiring Appeals Board authorization

*The following uses and any use not specifically permitted in this District, but which is of the same general character and intent of this District, shall be considered conditional uses in the Commercial "C1" District and will require conditional use permit from the Board of Zoning Appeals:*

- A. *Neighborhood shopping centers and other groupings of commercial buildings where there is a development of five (5) or more retail or service establishments under single ownership, provided:*
  - 1. *The applicant presents plans and specifications for the proposed use in a form suitable for making the determination required herein.*

2. *There is approval of a plan of access to the highway from the agency responsible for the maintenance of the highway.*
  3. *The entrance and exits shall be located where possible so as to afford unobstructed sight distance for five hundred (500) feet in each direction along the highway.*
  4. *All other applicable provisions of this Resolution are met.*
- B. *Drive-in theaters subject to the same conditions and restrictions as follows:*
1. *The applicant presents plans and specifications for the proposed use in a form suitable for making the determination required herein.*
  2. *There is approval of a plan of access to the highway from the agency responsible for the maintenance of the highway.*
  3. *The entrance and exits shall be located, where possible, so as to afford unobstructed sight distance for five hundred (500) feet in each direction along the highway.*
  4. *All buildings and structures (except fences) shall be at least one hundred (100) feet from any property line.*
  5. *The picture screen shall not face or be placed so it may be viewed from any major highway and shall be screened from view by trees or fences from adjacent roads.*
  6. *Provisions shall be made to subdue speaker sounds when the theater abuts a Residential District.*
  7. *All other applicable provisions of this resolution are met.*
- C. **Equipment rental**
- D. **Self Storage in a totally enclosed structure**

#### 854 Setbacks

- A. *The front setback for all uses permitted in this district shall be seventy-five (75) feet from right-of-way line.*
- B. **A minimum side yard of three (3) feet shall be required, unless a lot or parcel of land adjoins an Agricultural or Residential District, in which case a side yard of thirty (30) feet shall be required.**
- C. **A rear yard having a depth of not less than twenty (20) percent of the lot depth shall be provided, except that no rear yard shall be less than twenty (20) feet.**
- D. *Whenever a plan for Clermont County shall have been adopted showing proposed future widths of streets or proposed widening of an existing highway or street, structures or buildings shall be set back from the proposed right-of-way line.*
- E. **There shall be a landscape buffer screen area providing an adequate site, noise and air pollution barrier between the uses permitted in this District and any adjacent and Agricultural or Residential District. Landscape buffer screen shall be provided and maintained in accordance with Article 2, Section 220.**

- F. *Where lots have double frontage, the required front yard shall be on both streets and to allow for the maximum state highway requirements the Board shall affix special setbacks at determined high-density traffic areas to coincide with changing highway requirements.*
- G. *There shall be no projection beyond the setback lines as determined above.*

#### *855 Intensity of use*

*A minimum lot size of three fourths (3/4) of an acre with sewers, one (1) acre without sewers and a minimum lot width at the building line of one hundred fifty (150) feet shall be required in the Commercial "C1" District for uses permitted in this Section.*

In Jackson Township's Future Land Use Plan (2008), it specifies this area of the Township as "Policy Area 5" and is adjacent to "Policy Area 2" (see Figure 16 – Preferred Land Use).

#### ***Policy Area 2:***

*Policy area 2 is located in Monterey and Marathon. Currently many services are not available in Jackson Township due to small population number. However, there are some indications that population will increase in the upcoming years. There is even a possibility of a significant increase in the Township population in a short period of time. It is advisable that the community designate locations that can serve as neighborhood commercial centers. A study of Marathon and Monterey should be conducted in order to determine their potential for development as neighborhood commercial centers. The possibility of having neo-traditional design in Policy area 2 should be considered. The neo-traditional concept reintroduces the idea of a small town/village atmosphere, walkable town/village centers, and mixed-use neighborhoods. The main obstacle to creating neo-traditional communities in Marathon and Monterey is the lack of a sanitary sewer system. More research is needed in order to determine if neo-traditional design is possible in communities without a sanitary sewer system. A study of market demand is also recommended in order to identify if the market would support the creation of neighborhood commercial centers. Regardless of the 65 study's result, commercial development along US 50 should be confined to Monterey and Marathon so as not to create a commercial strip.*

#### ***Policy Area 5:***

*Policy area 5 in Jackson Township should remain reserved for residential use. This is consistent with adjacent Township Land Use Plans. The minimum lot size will be determined in regard to on site treatment systems since it is not likely that this area will receive a sanitary sewer system. Currently, the Zoning Resolution requires a minimum lot size of 1 acre when not served by sanitary sewers. The use of conservation subdivisions should be encouraged in Policy area 5.*

The proposed zoning request does not meet the goals of Jackson Township's Future Land Use Plan. However, it must be noted that the future land use plan has not been updated in over a decade.

**DEVELOPMENT PROPOSAL:**

Per the application, the proposed property to be rezoned consists of 19.39 acres to continue the existing use and future expansion of the motorsports outdoor track and facility. The previous owners and MCC of Cincinnati, LLC, have stated they were unaware that the facility had been operating as a non-conforming use under Jackson Township.

**SITE ACCESS:**

The proposed facility has two existing entrances from US 50. Both points of ingress/egress to the proposed facility and parking area will require ODOT approval.

**STAFF ANALYSIS:**

Per the review of the application, it has been explained that the previous owner may have received a conditional use permit to construct a motorsports track from Jackson Township between 2006-2009. Jackson Township has no copy of any zoning map amendment case, conditional use permit, or any other records of when this use had been discussed and or voted upon at a public hearing.

Regardless of the validity of the conditional use permit, when the property is sold the conditional use becomes invalid. Conditional use permits are given to the owner and do not transfer with the land.

MCC of Cincinnati, LLC is proposing, and in some cases currently expanding upon the existing use, the following:

- Expanding the track
- Expanding the parking
- Providing onsite storage
- Kart Rentals
- Airbnb (existing house)

Should Jackson Township approve the underlying zoning to Commercial "C-1" District additional individual conditional uses, permits, and variances will be required to be determined by the Jackson Township Board of Zoning Appeals.

**Conditional Use Permits Required:**

Article 8, Section 853:

- C. Equipment Rentals
- D. Self Storage in an enclosed structure

**Setback Variances Required:**

Article 8, Section 854:

- B. A minimum side yard of three (3) feet shall be required, unless a lot or parcel of land adjoins an Agricultural or Residential District, in which case a side yard of thirty (30) feet shall be required.
- C. A rear yard having a depth of not less than twenty (20) percent of the lot depth shall be provided, except that no rear yard shall be less than twenty (20) feet.
- E. There shall be a landscape buffer screen area providing an adequate site, noise, and air pollution barrier between the uses permitted in this District and any adjacent and Agricultural or Residential District. Landscape buffer screen shall be provided and maintained in accordance with Article 2, Section 220.

This request would be considered spot zoning. However, the motorsports facility is already existing, either through a permitted conditional use or township neglect. There have also been incidence of spot zoning along US 50. It would be advised that the township provide specific reasons for why these instances have occurred and address these circumstances in a revised Jackson Township Land Use Plan and create goals to prevent additional incidences of spot zoning through the township in the future.

***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).*

**Clermont County Community & Economic Development Comments:**

- The entire development shall conform to all standards found under Jackson Township Zoning Resolution: Article 7:Signs, Sections 700-771, Article 8, Commercial “C-1” District, Sections 850-855, and Article 10: Off-Street Parking Space Requirements, Sections 1000-1040. Any standards that are not met will require a variance.
- Individual requests for equipment rental and onsite storage will be required to be determined by the Jackson Township Board of Zoning Appeals.
- Residential uses are not permitted under any circumstance under Commercial “C-1” District. The single-family structure can still remain on the property but will be required to become a commercial structure. i.e. Front Office, conference facility,

classroom instruction.

**Clermont County Community & Economic Development Comments: Cont.**

- Recommend the Township implement standard hours of operation for the proposed site.
- Recommend the Township request the applicant to submit a professional site development plan detailing the existing structure locations, dimensions of the existing track, and proposed future development for the entire site area. A site plan is normally required for large-scale zoning projects that are essential for township staff to determine the site specifics for township zoning approval. Without a professional site development plan township staff has no way to determine the proposals compliance with the Township’s Zoning Resolution.
- Any food preparations or concessions will require permits through Clermont County Public Health.

**The Clermont County Engineer’s Office Comment:**

- Access to US 50 requires ODOT approval.

**The Clermont County Water Resources Department Comments:**

- Permits are required for all grading work as well as any structures added to the property.

**STAFF RECOMMENDATION:**

Based on the Staff Analysis, move to **RECOMMEND APPROVAL** of Jackson Township Zoning Case 2021-01 to rezone two parcels 142306A045 & 142306E083 consisting of 19.39 acres from Agricultural “A-1” District to Commercial “C-1” District with the following conditions:

1. The motorsports track and existing facilities are required to conform to all standards found in Jackson Township Zoning Resolution: Article 7: Signs, Sections 700-771, Article 8, Commercial “C-1” District, Sections 850-855, and Article 10: Off-Street Parking Space Requirements, Sections 1000-1040.
2. Individual conditional use permits shall be requested for the equipment rental and onsite storage will be required to be determined by the Jackson Township Board of Zoning Appeals.
3. Residential uses are not a permitted use or granted as a conditional use under Jackson Township’s Commercial “C-1” District.
4. Jackson Township shall implement standard hours of operations for the proposed development.

**STAFF RECOMMENDATION: Cont.**

5. ODOT approval is required for all access to US 50.
6. W.M.S.C Permits and County Building Permits are required for all grading work and structures added to the property.
7. Any food preparations or concessions will require permits through Clermont County Public Health.
8. Request a professional site development plan to be submitted to Jackson Township, detailing the locations and dimensions of existing structures, track, and future development requests on the entire site area.