

# **Chester Township Zoning Commission Meeting Minutes**

| Wednesday, June 15, 2022 7:00 PM |

Meeting Called to Order by Mr. Oswick at: 7:00 pm

## **Roll Call**

Members present: Mr. Chess, Mr. Kats, Mr. Nastasi, Mr. Oswick, Mr. Peto\*

Members absent: Mr. Lauro

Admin present: Ms. McCarthy

\*Mr. Peto served as alternate for Mr. Lauro

## **Pledge of Allegiance**

Mr. Oswick led the Committee in reciting the Pledge of Allegiance.

## **Item 1. Approval of Minutes**

- Approval of the May 18, 2022 meeting minutes was tabled until next meeting.

## **Item 2. Open the Public Hearing for Proposed Chester Township Zoning Amendment ZC-2022-1 Tranchita Enterprises LLC at 7:02 pm at Chester Town Hall**

- Mr. Oswick outlined the following Public Hearing Procedure:
  - Audience members in attendance – sign in on the sign-in sheet located at the podium.
  - Welcome all comments related to either support of or opposition to the proposed amendments.
  - Anyone wishing to voice their comments this evening – please state and spell your name and provide your address for the record before you begin your comments.
  - Zoning Commissioners will listen as public comments are offered.
  - Once the public comments have been concluded, the public comment session will be closed.
  - The Zoning Commission deliberates and decides to either 1) vote on the proposed amendment – approve, deny or approve with modifications(s); or 2) continue the public hearing to another date.

## **Item 3. Proposed Chester Township Zoning Amendment ZC-2022-1**

- Mr. Nastasi reviewed the background of the amendment.
  - The Chester Township Zoning Commission initiated the proposed amendment on May 18, 2022.
  - In accordance with ORC Section 519.12, the proposed amendment was properly noticed and transmitted to the Geauga County Planning Commission.
  - As required by ORC Section 519.12, the recommendation of the Geauga County Planning Commission must be considered during the public hearing.
  - Kathleen McCarthy read the approval recommendation of the Geauga County Planning Commission into the record for consideration.
  - Proposed amendment ZC-2022-1 would modify the current Chester Township Zoning Resolution as follows: (Amendment was displayed on monitor and is included with these meetings.)

## **Chester Township Zoning Commission Meeting Minutes**

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- The presentation was turned over to Mr. Joe Weiss who spoke on behalf of Tranchita Enterprises LLC.
  - Joe Tranchita has operated this business, Advanced Auto Clinic at 8833 Mayfield Road since 1998. Building was purchased in 2011 by Joe Tranchita. and operates his business from this address. Much has been done to improve the area in the last five years.
  - Building was built in 1964 and is 3,400 square feet.
  - This is the property where the McDonald case granted a use variance in 1963. Property has been used this way since then. Original court ruling suggested this (Commercial) is the only good use of the property.
  - Our goal here is to simply bring this property into the current code – Commercial.
- Mr. Weiss turned it over to Mr. Dave Dietrich.
  - Mr. Dietrich reviewed Form No. 21, Application for a Zoning Amendment and all attachments.
  - Address is 8833 Mayfield Rd; Chester. Permanent Parcel # is 11-203500 and 11-203600.
  - Mr. Dietrich stated that this is following a basic zoning principal. Whenever the chance presents itself to bring a lot into conformity, this should be done.
  - Exhibit J is the “meat” of what this is all about.
  - The premise is continued use of the property and to make it conforming.
  - This fits the current Land Use Plan.
- Mr. Chess asked if there has been any discussion with adjacent property owners concerning reclassifying their properties. No, and those property owners didn’t seem to be in the audience.
- Mr. Kats asked, since precedent is being used, couldn’t the neighbor to the east use this same precedent to request their Residential property become zoned Commercial?
- Mr. Weiss said we aren’t concerned about the others. We just want to make this property compliant. Their argument wouldn’t be the same as ours. Ours is already being used commercial and we want to bring this into compliance.
- Mr. Kats said the next property owner could still use the same argument. Also, has there been any detriment in not getting this approved? For instance, what about getting a loan? When you go to sell the property, this would be an issue, right?
- Mr. Weiss – yes, currently this property is not zoned commercial.
- Mr. Kats – Why do you need it rezoned? Just because 60 years later the owner wants it in conformity? I’m just trying to determine the detriments if this is not rezoned.
- Mr. Weiss – Our goal is to make it right. For Joe Tranchita or a subsequent buyer.
- Mr. Dietrich – There are many things that can lead to a problem. If we can get away from a non-conformity, we should do that.
- Mr. Kats – I’m just trying to figure out why the owner would pay to have this brought into compliance. I don’t see the benefit.
- Mr. Anthony Fitzenrider – Asked Mr. Tranchita directly what his intentions are? Do you want to bring in another building?
- Mr. Tranchita – Just to bring the property into conformity and when the time comes to sell the property, it will be in compliance.
- Ms. Cathy Cotman – When the court remanded the case back to the Chester BZA, what was the variance granted for?
- Mr. Weiss – Use variance for commercial use.
- Ms. Margaret Muehling – This amendment proposes to reflect the reality of a court order by revising the legal descriptions in the Commercial District in Chester Township in a

## Chester Township Zoning Commission Meeting Minutes

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specific instance. This expansion is an anomaly and should be recorded in a clear way, so it is not used as a precedent. We are now not in compliance with a court order. I think this amendment should be approved with a modification.

- Exhibit E uses “Surveyor Talk”. Ms. Muehling suggested the following phrase be added to Exhibit E. “\*Compliant with Court of Appeals, Geauga County, Jan. 11, 1963: Appeal of McDonald (Case no. 196 N.E.2d 333).”
  - In 2001 the GCPC advised the Zoning Commission to write legal descriptions of the Zoning districts.
  - Ms. Muehling’s presentation is included with these minutes as “Tranchita Proposed Amendment, 18 May 2022.
- Mr. Oswick asked if there were any other public comments. There being none, the public comment session was closed.

Mr. Nastasi, referring to the Chester Township Zoning Map, suggested the adjoining property to the east is not easily built on. Has a natural ravine to the east, industrial to the north and adjoined by commercial to the west. Which would make it a natural fit to become commercial. This seems to make a lot of sense to allow Commercial use.

Mr. Chess asked about the modification that Ms. Muehling brought up. Mr. Weiss said they agree with it being included. The Zoning Commission Board agreed this should be included as a modification moving forward to the BoT.

Mr. Nastasi pointed out we are not looking at the back 100 feet, but I do not see that being an issue.

Mr. Oswick asked for a motion for the amendment.

Mr. Nastasi made the following motion which was seconded by Mr. Peto:

That the Chester Township Zoning Commission recommend the approval of the following modification to the proposed amendment, ZC-2022-1 to the Chester Township Zoning Resolution, as attached hereto. Attachment E shall be modified to include “\*” before Course LV. and “\*” before Course LVI. and the following sentence shall be added at end of the page, “\*Compliant with Court of Appeals, Geauga County, Jan. 11, 1963: Appeal of McDonald (Case no. 196 N.E. 2d 333).”

Mr. Chess/yes; Mr. Kats/yes; Mr. Nastasi/yes; Mr. Oswick/yes; Mr. Peto/yes  
Motion passed

Mr. Nastasi made the following motion which was seconded by Mr. Oswick:

The Chester Township Zoning Commission hereby submits the attached recommendation on the proposed amendment, identified as number ZC-2022-1 to the Chester Township Zoning Resolution together with the attached application and text and map pertaining thereto and the attached recommendation of the Geauga County Planning Commission to the Chester Township Board of Township Trustees this 15<sup>th</sup> day of June, 2022. (Form No. 32)

Mr. Chess/yes; Mr. Kats/yes; Mr. Nastasi/yes; Mr. Oswick/yes; Mr. Peto/yes  
Motion passed

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### **Item 4. Signing of Form Nos. 31 and 32 for Amendments**

Completed

Motion to close the public hearing for proposed Chester Township Zoning Amendment ZC-2022-1.

Moved by Mr. Nastasi; Seconded by Mr. Kats

Mr. Chess/yes; Mr. Kats/yes; Mr. Nastasi/yes; Mr. Oswick/yes; Mr. Peto/yes

Motion passed

### **New Business**

None

### **Correspondence Received**

Letter from Linda Crombie, Planning Dir of Geauga County Planning Commission re: Proposed Zoning Amendment No. ZC 2022-3 was denied. Ms. Cotman added that the nine commissioners present voted unanimously to deny.

### **Public Comments**

The Public Comments below relate to ZC-2022-3, Caves Rd. LLC. Also referred to as Congregate Care

Ms. Linda Nissan asked what the next step was after the GCPC recommendation. Mr. Oswick said the next step is for the Public Hearing which is scheduled for July 6, 2022.

Ms. Cotman asked the Fire Chief if Chester Twp has the capacity to support the Congregate Care facility?

Chief William Shaw - Can't answer directly, but it does have the potential for raising call volume 3 ½ to 7%.

Daniel Ford – Do you have a response to the GCPC meeting of June 14, 2022?

Mr. Peto – Our response is to go to the Public Hearing and hear the Public's comments. Then we render a judgement based on the Planning Commission and the Public comments.

Mr. Kats – That process will be the same as what happened today.

Mr. Oswick – It's up to us to listen to the public and then to make a recommendation to the Board of Trustees.

Mr. Nastasi – It will be much like the hearing you just heard. The applicant will have an opportunity to present, the public may ask/voice concerns and then the Zoning Commission will make a recommendation to the Chester Board of Trustees.

# **Chester Township Zoning Commission Meeting Minutes**

| Wednesday, June 15, 2022 7:00 PM |

**Meeting Called to Close at:** 8:35 pm

Approved by:

Chester Township Zoning Commission July 20, 2022

Final Review by: \_\_\_\_\_  
Jon Oswick, Chair

FORM NO. 21

APPLICATION FOR A ZONING AMENDMENT

CHESTER TOWNSHIP

O.R.C. SECTION 519.12(A)

The undersigned owner(s) or lessee(s) of the following legally described real property hereby request the adoption of the following zoning amendment to the Chester Township Zoning Resolution.

THIS APPLICATION SHALL BE COMPLETED BY THE APPLICANT.

- A. Name of Applicant: Tranchita Enterprises LLC, Joe Tranchita  
Address of Applicant: 8485 Kirkwood Dr., Chesterland, OH 44026  
Telephone Number of Applicant: (440) 729-5350  
Fax Number of Applicant: (440) 397-2317  
E-mail Address of Applicant: aaclinic1@gmail.com
- B. Address(es) and PPN(s) of the lot(s): 8833 Mayfield Rd., Chesterland, OH 44026  
PPN 11-203500 and 11-203600
- C. Describe the present use of the lot(s): County Auditor Class 455: Commercial Garage  
for PPN 11-203500. Vacant for PPN 11-203600.
- D. Describe the present zoning classification of the lot(s): R3A: One Family Residential
- E. Provide the text of the proposed amendment: (use strike-through on any existing text to be deleted and highlight proposed text) To rezone PPNS 11-203500 and 11-203600 from  
R3A: One Family Residential to C: General Commercial. See attached Exhibit "E"  
for legal description of C: General Commercial Zone to be amended.
- F. What is the proposed zoning district classification? (if applicable) C: General Commercial
- G. Attach a copy of the deed(s) of record with a legal description for the lot(s) included in the proposed amendment. The applicant shall be the record title owner of the lot or an executed lease agreement for the affected lot shall be provided and written evidence submitted that the lessee has the owner's consent to make application. See attached Exhibit "G".
- H. Attach a map, drawn to scale, with a north arrow, showing the boundaries and dimensions (in feet) of the lot(s). See attached survey map Exhibit "H".
- I. Attach a copy of the official township zoning map with the area proposed to be changed fully delineated and the proposed zoning district designation shown thereon, if applicable.  
See attached Exhibit "I".
- J. Attach a statement relative to the reason(s) for the proposed amendment and how it relates to the township land use plan. See attached Exhibit "J".

Replacement Page 3/3/14

K. A site plan detailing existing and proposed buildings, structures, and uses on the affected lot(s) and documenting the provision and location(s) of sewage treatment and water supply systems. See attached Exhibit "H".

L. Provide a list of the addresses and PPN's from the county auditor's current tax list of all owners of property within and contiguous and directly across the road from the area proposed to be rezoned or redistricted, if the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land as listed on the county auditor's current tax list. See attached Exhibit "L".

I hereby certify that all of the information supplied in this application and attachments hereto is true and correct to the best of my knowledge, information and belief.

I hereby acknowledge that I understand that the penalty for falsification is imprisonment for not more than six (6) months, or a fine of not more than one thousand dollars (\$1,000), or both.

Joe Tranchita Enterprises  
Applicant's Signature

Print Name: Joe Tranchita

2/1/22  
Date

\*\*\*\*\*

FOR OFFICIAL USE ONLY

Application or Amendment Number: \_\_\_\_\_

Date Application Received: \_\_\_\_\_

Date of Submission to County Planning Commission: \_\_\_\_\_

Date of Public Hearing: \_\_\_\_\_

Dates, time and place of public examination: \_\_\_\_\_

Date of Notice to Property Owners: \_\_\_\_\_

Date of Notice in Newspaper: \_\_\_\_\_  
(provide name of newspaper)

Date of Submission to Board of Township Trustees: \_\_\_\_\_

Amount of Fee Paid: \$ \_\_\_\_\_

I hereby acknowledge the receipt of this application for a zoning amendment this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Signature of Chairman or Secretary of  
Township Zoning Commission

Print Name: \_\_\_\_\_

Replacement Page 3/3/14

## EXHIBIT "E"

Course LV. Thence easterly along the centerline of said Mayfield Road to the northeasterly corner of parcel ~~#11-205700~~; **11-203500**;

Course LVI. Thence along the easterly line of said parcel ~~#11-206700~~ ~~#11-205800~~ **#11-203500** and **#11-203600** to a point that is the southeasterly corner of parcel **#11-203600**; thence westerly along the southerly line of parcel **#11-203600** to a point at the southwesterly corner of parcel **#11-203600**; thence northerly along the westerly line of parcel **#11-203600** to a point that is 500 feet distant from, by normal measurement, the centerline of Mayfield Road;



Mayfield Road (60' U.S. 322

Chillicothe Road (60' State Route 306



Survey of land now or formerly owned by

Tranchita Enterprises, LLC,

PN: 11-203500 & PN: 11-203600

OR Book 1910 Page 671

being part of Original Lot Number 27, Tract Number 3

Township of Chester, County of Geauga, State of Ohio

Thomas J. O'Hara  
Professional Land Surveyor #7895  
within the State of Ohio

Dated: 2/27/17

LEGEND

- 5/8" dia. x 30" long steel rebar set capped "O'Hara"
- survey monument found
- no record distance
- calculated distance
- Survey reference used distance
- measured distance
- record distance
- tree line
- fence line
- street right of way
- street centerline
- own through
- official record
- deed volume
- p.o.b. place of beginning

References:

Deeds of Record  
Field Observations made February 2017  
Prior O'Hara Survey Number 1257  
U.S. 322 Mayfield Road, 1946 Plans-02.77-07.04 GEA-CHE

NOTES:

The basis of bearings used hereon are based upon True North utilizing the Ohio Department of Transportation CORS GNSS Network.  
Distances are shown as U.S. Foot and decimal parts thereof.

This Plat was prepared without the benefit of a Title Exam, and is subject to the results that an independent Title Exam may reveal.

This Plat of Survey depicts the results of a Boundary Survey as prepared according to the minimum standards for a Boundary Survey as described in the Administrative Code Chapter 4733-37, by O'Hara Land Surveying, L.L.C.  
This Survey is not valid unless it bears an Original Signature and Seal.

O'Hara Land Surveying, L.L.C.

P.O. Box 902, Chardon, Ohio 44024  
oharasurveys@yahoo.com

V: 440-286-8417

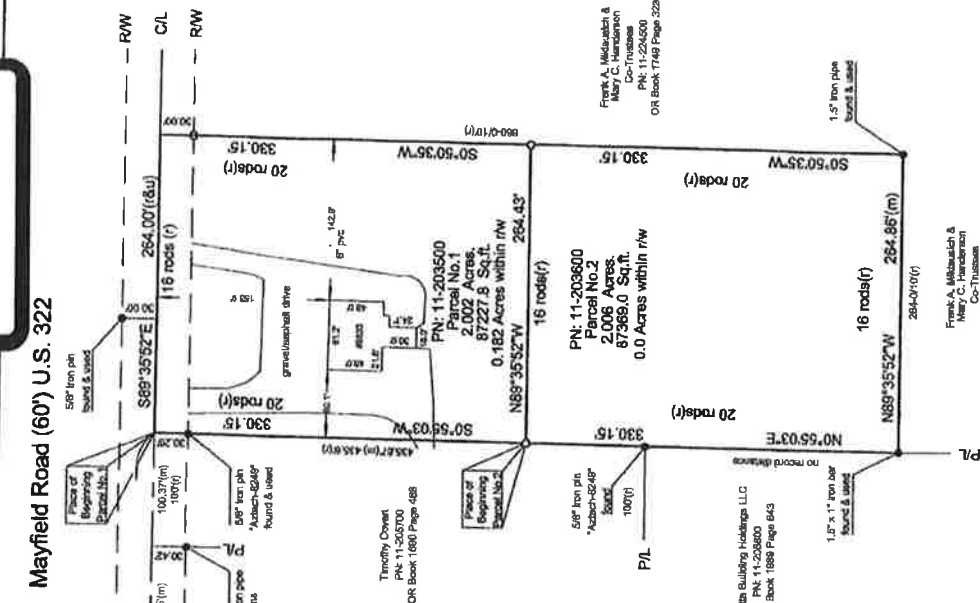
Sheet

1 of 1

Date of Survey

02/27/2017

Project No.: 1789



Frank A. Melasich &  
Harry C. Handman  
Professional Land Surveyors  
PN: 11-224500  
OR Book 1749 Page 3222

Frank A. Melasich &  
Harry C. Handman  
Professional Land Surveyors  
PN: 11-224500  
OR Book 1749 Page 3222

Tranthy Court  
PN: 11-203700  
OR Book 1880 Page 488

Angus Building Holdings LLC  
PN: 11-203600  
OR Book 1889 Page 643

Instrument 201100830988 OR Book Page 1910 671

Exhibit "G"

REAL PROPERTY TRANSFER TAX  
TRANSFERRED AND PAID

OCT 11 2011

FEES 225.00 x 4  
Frank J. Gliha, County Auditor  
BY: *[Signature]*

201100830988  
Filed for Record in  
GEAUGA COUNTY OHIO  
SHARON C GINGERICH, RECORDER  
10-11-2011 At 03:31 PM.  
DEED 36.00  
OR Book 1910 Page 671 - 673

LAWYERS TITLE OF CHARDON  
# 110-396e

WARRANTY DEED

***KNOW ALL MEN BY THESE PRESENTS***

THAT, NINO C. GABRIELE (Divorced and not re-married), the Grantor, who claims title by or through an instrument recorded in Volume 1019, Page 1315, County Recorder's Office, for and in consideration of Ten Dollar (\$10.00) received to her full satisfaction of TRANCHITA ENTERPRISES, LLC (a limited liability company), the Grantee, whose tax mailing address will be 8485 Kirkwood Drive, Chesterland, OH 44026, has Given, Granted, Bargained, Sold and Conveyed unto the said Grantee, its administrators, successors and assigns, the following described premises:

See Exhibit "A"

Permanent Parcel Nos. 11-203500 11-203600

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereunto belonging, unto the said Grantee, its administrators, successors and assigns forever. And the said Grantor does for himself and his heirs, executors, administrators, successors and assigns covenant with the said Grantee, its administrators, successors and assigns, that at and until the ensembling of these presents, he is well-seized of the above-described premises as a good and indefeasible estate in fee simple and has good right to bargain and sell the same manner and in form as above written; that the same is free and clear of all liens and encumbrances whatsoever, except restrictions, reservations, conditions and easements of record; zoning regulations, if any; and taxes and assessments, both general and special, not yet due and payable; and that it shall warrant and defend said premises, with the appurtenances thereunto belonging, unto the said Grantee, its administrators, successors and assigns, forever, against all lawful claims and demands whatsoever except as stated above.



-2-

IN WITNESS WHEREOF, I have hereunto set my hand at Chardon, Ohio  
on this 11<sup>th</sup> day of October, 2011.

  
\_\_\_\_\_  
NINO C. GABRIELE

STATE OF OHIO      )  
                                 ) SS.  
COUNTY OF GEAUGA      )

Before me, a Notary Public in and for said County and State, personally appeared the  
above named NINO C. GABRIELE (Divorced and not re-married), the Grantor, who  
acknowledged that he did sign the foregoing instrument and that the same was his free act and  
deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official at Chardon, Ohio  
on the 11<sup>th</sup> day of October, 2011.

  
\_\_\_\_\_  
Notary Public

This Instrument prepared by:  
JOSEPH H. WEISS, JR.  
Attorney at Law  
8228 Mayfield Road  
Chesterland, Ohio 44026  
(440) 729-7278

DEBRA MACK  
Notary Public, State of Ohio  
My Commission Expires 1/18/15  
Recorded in Geauga County

EXHIBIT "A"

PARCEL NO. 1

Situated in the Township of Chester, County of Geauga and State of Ohio; and bounded and described as follows, to wit: Part of Original Lot No. 27, Tract 3;

Beginning in the center of the east and west road, (Mayfield) at the northwest corner of lands deeded to Cyrus Keeny by Sarah B. Johnson and Martin W. Johnson by deed bearing date March 21, 1865, be the northeasterly corner of land in the name of R. & D. Mansfield, as shown by Deed recorded in Volume 332, Page 435 of Geauga County Records of Deeds;

Thence East along the center of said Road 16 rods;

Thence South parallel to the west line of said land, 20 rods;

Thence West parallel to the center of said road 16 rods to lands now owned by Laura Rudy;

Thence North on said Rudy's east line, 20 rods to the place of beginning, containing 2.00 acres of land, be the same more or less, but subject to all legal highways.

PARCEL NO. 2

Situated in the Township of Chester, County of Geauga and State of Ohio, and known as part of Lot No. 27 in Tract No. 3 and bounded as follows:

Commencing twenty (20) rods south of the center of the east and west state road (Mayfield) so called and by Laura Rudy's east line being in the easterly line of land in the name of H. & D. Mansfield as recorded in Volume 332, Page 435 of Geauga County Records;

Thence South along said line 20 rods;

Thence East 16 rods to a stake;

Thence North 20 rods to land deeded by Cyrus Keeny to Ruth Cook;

Thence West along the south line of said Ruth Cook land 16 rods to the place of beginning, containing 2.00 acres of land, be the same more or less, but subject to all legal highways.

DESCRIPTION  
Reviewed by AKQ  
Date 10-11-11  
GEAUGA COUNTY AUDITOR

Property Address: 8833 Mayfield Road, Chesterland, OH 44026  
Tax ID No.: 11-203500, 11-203600

**Tranchita Enterprises, LLC**  
**PN: 11-203500 and 11-203600, OR Book 1910 Page 671, Parcel Number 1 and 2**

Situated in the Township of Chester, County of Geauga, State of Ohio, being part of Lot Number 27, Tract Number 3, in said Township. Beginning at the centerline intersection of Chillicothe Road (State Route 306) (60') and Mayfield Road (U.S. Route 322) (60'), said point witnessed by a 1" iron pin found in a monument box assembly. Said point being Station 0.00 per Road Records U.S. 322 Mayfield Road, 1946 Plans-02.77-07.04 GEA-CHE. Thence South 89°35'52" East along the centerline of Mayfield Road, a distance of 3064.92 feet to a point, said point being the northeast corner of land now or formerly owned by Timothy Covert, PN: 11-205700 as recorded in OR Book 1690 Page 488 in Geauga County Record of Deeds (GCRD), said point being the **Place of Beginning** of the parcel herein described.

Thence South 89°35'52" East continuing along the centerline of Mayfield Road a distance of **264.00 feet** to a point, said point being a northwest corner of land now or formerly owned by Frank A. Miklausich & Mary C. Henderson, Co-Trustees, PN: 11-224500, as recorded in as recorded in OR Book 1749 Page 3232 (GCRD).

Thence South 00°50'35" West along the West line of PN: 11-224500, aforementioned, passing through a 5/8" iron pin "O'Hara" found at 30.00 feet, a 5/8" iron pin "O'Hara" found at 330.15 feet, a total distance of **660.30 feet** to a point, said point being an interior corner of PN: 11-224500, aforementioned, said point witnessed by a 1-1/2" x 1" iron pipe found.

Thence North 89°35'52" West along a North line of PN: 11-224500, aforementioned, a distance of **264.86 feet** to a point, said point being on the East line of land now or formerly owned by Angelotta Building Holdings LLC, PN: 11-205800, as recorded in OR Book 1989 page 643 (GCRD), said point witnessed by a 1-1/2" x 1" iron bar found.

Thence North 00°55'03" East along the East line of PN: 11-205800, aforementioned and the East line of PN: 11-205700, aforementioned, passing through a 5/8" iron pin "Aztech #8249" found at 224.64 feet, a 5/8" iron pin "O'Hara" found at 330.15 feet, a total distance of **660.31 feet** to a point in the centerline of Mayfield Road, passing through a 5/8" iron pin "Aztech #8249" found at 30.26 feet therefrom, said point being the Place of Beginning, and containing **4.008 total acres** of land, 0.182 acres within the right of way of Mayfield Road, be the same more or less, but subject to all legal highways, pursuant to a Survey (3080) dated January, 2022, by O'Hara Land Surveying, L.L.C. and Thomas J. O'Hara, Ohio Registered Surveyor No. 7995. The basis of bearings used hereon are based upon True North utilizing the Ohio Department of Transportation CORS GNSS Network. Distances are shown as U.S. Foot and decimal parts thereof. The intent of this description is to consolidate all of the land now owned by Tranchita Enterprises, LLC, PN: 11-203500 and 11-203600, as recorded in OR Book 1910 Page 671, Parcel Number 1 and 2, in Geauga County Record of Deeds. All iron pins noted as being set are 5/8" x 30" long steel rebar, bearing a plastic cap "OHARA 7995".

*Thomas J. O'Hara*

Thomas J. O'Hara  
Ohio Registered Surveyor No. 7995  
Dated: 01/04/2022

Survey Plat & Description  
Approved Per O.R.C. 315.251

Gauga County Engineer

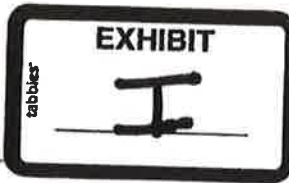
Reviewed under the supervision of  
Steven N. Roemer, P.S. Ohio #7070

By: SNR Date: 01/06/2022

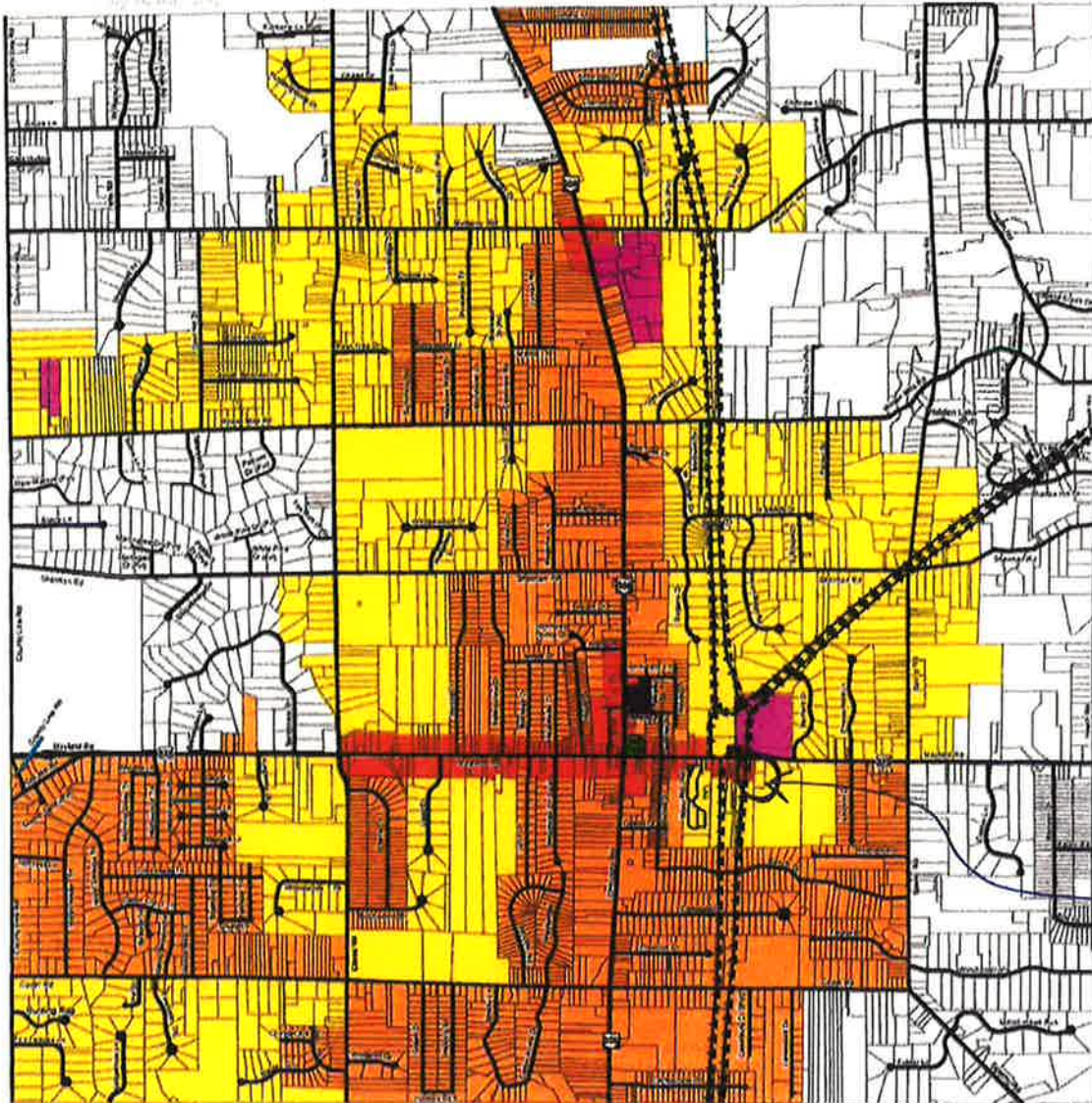
22-004







LAKE COUNTY



Parcels Tractings

High Tension Wires

### Zoning Districts

- R: One Family Residential
- R3A: One Family Residential
- R5A: One Family Residential
- SC: Shopping Center
- C: General Commercial
- I: Restricted Industrial

O Rezone PPN



## Chester Township Zoning Map

Note: Two Family Residential, Min. 3 acres  
Dated by Amendment Z-92-2, Effective 2/11/1993

Prepared by The Georgia County Planning Commission October 1999  
Note: The Georgia County Planning Commission does not warrant  
the accuracy of this map. It is not based upon a land survey  
Rev July 2000, April 2008

Revised September 1999, Revised November 2000, Revised December 2001  
Revised July 2004 (roads, lot lines & high tension wires)  
Revised April 2008 (lot lines)  
Revised May 2016 (lot lines and roads)  
Revised January 2018 (lot lines and roads)

\*Per action taken on Amendment No. Z-2006-2 referendum petition by  
Georgia County Board of Elections

Amendment No. Z-2006-2 is hereby Adopted  
by the Chester Township Board of Trustees  
this 18th Day of May, 2008

Joshua Caputo, Trustee  
Ronald N. Colman, Trustee  
Clay Lawrence, Trustee

Effective the 28th Day of August, 2008

Karen M. N. Austin, CPA, Fiscal Officer

Lot Lines and Roads Updated the

2<sup>nd</sup> day of February 2016  
*[Signature]*  
Joseph C. Matzura, Trustee  
*[Signature]*  
Ronald N. Colman, Trustee  
*[Signature]*  
Clay Lawrence, Trustee  
*[Signature]*  
Karen M. N. Austin, CPA, Fiscal Officer

Subject  
parcels

10/10

11-203500 and 11-203600  
From R3A to C



## Exhibit "J"

Joe Tranchita, Tranchita Enterprises LLC

### Zoning Amendment Application

Attach a statement relative to the reason(s) for the proposed amendment and how it relates to the township land use plan.

The subject real property is located at 8833 Mayfield Road (U.S. Route 322) and currently consists of two parcels PPN 11-203500 and 11-203600. It is recorded at volume 1910 page 671 of the Geauga County Deed Records (see Exhibit "G").

PPN 11-203500 has 264.00 feet of frontage on Mayfield Road, a depth of 330.15 feet, and consists of 2.002 acres (see survey by Tom OHara, Exhibit "H").

PPN 11-203600 is contiguous with PPN 11-203500 and has no road frontage. It has 264.43 feet in width, a depth of 330.15 feet, and consists of 2.006 acres (see survey map by Tom OHara, Exhibit "H").

PPN 11-203500 has a commercial garage building located on it per County Auditor's office records, two driveways that are connected to Mayfield Road, and a parking area adjacent to the building. The building contains 3,470 square feet of floor area. It is setback 153.9 feet from the centerline of Mayfield Road. The easterly side yard building setback is 142.9 feet and the westerly side yard setback is 60.1 feet (see survey map by Tom OHara, Exhibit "H").

The two lots of record are to be consolidated so as to eliminate the landlocked parcel and to make the site more in conformity with the C: General Commercial Zoning District standards in the Chester Township Zoning Resolution. The consolidated lot exceeds the minimum dimensional requirements in the C Zone as set forth in Section 5.02.17 of the Zoning Resolution (see survey map by Tom OHara, Exhibit "H" and C District Dimensional Table Section 5.02.17 Exhibit "K").

The existing building size is 3,470 square feet and the minimum is 1,000. The building is 18 feet in height and the ~~minimum~~ maximum is 35 feet. Maximum lot coverage is 60%. The consolidated lot has 12.8% lot coverage. The minimum lot area is two acres and the consolidated lot has 4.008 acres. Minimum lot frontage is 200 feet and the consolidated lot has 264 feet of frontage on Mayfield Road. The minimum front setback is 135 feet from the centerline and the existing building is setback 153.9 feet. The minimum side setback is 20 feet or 40 feet from an adjoining R District. The westerly side setback is 60.1 feet and the easterly side setback (adjacent to the R3A Zone) is 142.9 feet. The minimum rear setback is 60 feet and the existing building is over 300 feet from the rear lot line. The minimum driveway setback from a side lot line is 20 feet. The driveway setback on the consolidated lot is 21.5 feet on the westerly side and 96.0 feet on the easterly side of the lot. (see survey map by Tom OHara, Exhibit "H").

*Note: correction above "minimum" to "maximum" 6/15/22 per current Zoning Resolution.*

The subject premises has been continuously used as a commercial repair garage since 1964. The purpose of the amendment is to recognize the existing commercial use of the property in order to make it conforming.

Of significant note is the opinion of the Court of Appeals, Geauga County, dated January 11, 1963 identified as Appeal of McDonald (case no. 196 N.E.2d 333) in regards to the subject premises (see Exhibit "N.") The requested variance was to allow a commercial use of the premises. The Court concluded, in part: "Under all special circumstances existing at the time of this application for variance, all the evidence tends to show that the literal enforcement of the resolution will restrict the use of the property without concomitant benefit to the public. Such restriction is undue hardship, and the refusal of the variance is an unreasonable exercise of the board's discretion. The judgment is reversed and the cause remanded to the Board of Zoning Appeals with instructions to authorize the variance."

The subject property is contiguous with the C: General Commercial Zone to the west. To the north the property directly across the road is zoned I: Restricted Industrial. The adjacent land to the east and south is zoned R3A: One Family Residential. (see zoning map Exhibit "I" and map 7).

In terms of existing land use, the property immediately to the west is in commercial use and a mobile home park, to the north is a mix of light industrial/office uses, to the east is a dwelling and place of worship, and to the south is vacant. (see map 1).

The Chester Township Land Use Plan (LUP, 2008) provides that existing commercial land use comprises 220.6 acres or 1.5% of the township's total land area (page II-30). The subject property is identified as "commercial" on the existing land use map (page II-31). Existing C: General Commercial Zoning includes 249.29 acres with 151.18 acres in commercial use. Only 1.7% of the township's land base is zoned commercial (page II-38). The subject property is not recommended for potential residential development per the LUP (page II-45).

Gauga ReaLink information provides that the expected groundwater (well water) yields in the area is 25-100 gallons per minute (see map 2). The detailed soils map reflects that the subject area is classified as WbB or Wadsworth Silt Loam, a typical soil type found in the county (see Map 3). Slope ranges from 2-6% (see map 4). The site is not within a wetland (see Map 5) or a 100 year floodplain zone X (see Map 6).

Average daily traffic counts on Mayfield Road reveal that over 12,000 vehicles per day traverse Mayfield Road in the affected area. It is a heavily traveled major arterial east/west road connecting Geauga County townships to the east with municipalities in Cuyahoga County to the west. (see LUP page II-5).

County Auditor's information reveals that the annual real estate taxes on the premises are \$3,553.90 annually (see Exhibit "M".)

The reason for the amendment is to bring the affected land into zoning compliance. The lots of record will be consolidated. Frontage, area, coverage, and setbacks for the C: General Commercial Zone are met. The use of the premises is commercial and it is in harmony with the Chester Township Land Use Plan. There are no environmental constraints on the site and it fronts along a major arterial state highway. It



is contiguous with existing commercial and light industrial/office uses. The property is also adjacent to the existing C: General Commercial Zone and the I: Restricted Industrial Zone, which is directly across the road. It is buffered to the east from the R3A District in accord with existing zoning regulations. The property is classified as a commercial garage per the County Auditor's office and taxes are determined accordingly.

Lastly, and most importantly, rezoning the affected property to commercial is in harmony with the McDonald decision by the Court of Appeals noted hereinabove.



**Section 5.02.17 Dimensional Requirements in a C District (Table)**  
(Read Columns Down)

C District Uses	Minimum Floor Area	Maximum Height	Coverage	Minimum Lot Area	Location	Minimum Lot Frontage and Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Space Between Buildings
All Uses Permitted in a C District	1,000 square feet	35 feet	Minimum Green Space: 40%	With On-site Sewage Treatment: 2 acres (87,120 square feet)	Lots on U.S. 322, S.R. 306, Mulberry Road	200 feet	135 feet from centerline or 105 feet from Right-of-way, whichever is greater	20 feet	60 feet	40 feet
See Section 5.02.01		Accessory Buildings: 15 feet	Maximum Lot Coverage: 60%	With Sanitary Sewers Installed: ¼ acres (32,670 square feet)						
					Lots on All Other Roads	100 feet	Same as R District requirements for said road	20 feet	60 feet	40 feet
								40 feet, if adjoining "R" District		

Source: Chester Township Zoning Resolution Effective 1/14/2021

**Exhibit "L"**

**Application for zoning amendment.**

**Joe Tranchita, Tranchita Enterprises LLC.**

**List of addresses and permanent parcel numbers for all owners of property within and contiguous and directly across the road from the area to be rezoned.**

**Joe Tranchita, Tranchita Enterprises LLC  
8833 Mayfield Road  
Chesterland, Ohio 44026  
PPN: 11-203500 and 11-203600**

**Timothy Covert  
8829 Mayfield Road  
Chesterland, Ohio 44026  
PPN: 11-205700**

**Angelotta Building Holdings, LLC  
8825 Mayfield Road  
Chesterland, Ohio 44026  
PPN: 11-205800**

**Frank Miklausich and Mary C. Henderson Co-Trustees  
8881 Mayfield Road  
Chesterland, Ohio 44026  
PPN: 11-224500**

**GBC Real Estate Partnership  
8844 Mayfield Road  
Chesterland, Ohio 44026  
PPN: 11-056200**



Exhibit "M"

Geauga **REALink**Charles E. Walder  
Geauga County Auditor

New Search

Parcel Number	Location Address	Owner Name	Acres
11-203500	8833 MAYFIELD RD	TRANCHITA ENTERPRISES LLC	2.00

Main Information Map Tax Details Sales Improvements Permits Sketch Cards Special Assessments Special Assessment Payoff Value History

Sale Date	10-11-2011	Property Class	455	Owner Occupied	No
Sale Amount	\$225,000	Vol / Page	191/671	Homestead	No Credit
Add Remarks					

\*\* The following amounts do not reflect the current taxes due. Please visit [GeaugaTax.com](http://GeaugaTax.com) for an updated balance.

Information for Tax Years: 2020 (Payable 2021) ▼

Cert Delq Year = 0	Prior Delq	Adj-Delq	December	Adj-Dec	June	Adjustments
<b>ReCharge</b>	0.00	0.00	<b>2486.56</b>	0.00	<b>2486.56</b>	0.00
<b>HB 920 Credit</b>			<b>709.61</b>	0.00	<b>709.61</b>	0.00
<b>Subtotal</b>	0.00		<b>1776.95</b>		<b>1776.95</b>	
<b>Homestead</b>			0.00	0.00	0.00	0.00
<b>Non Business Credit</b>			0.00	0.00	0.00	0.00
<b>Owner Occupied Credit</b>			0.00	0.00	0.00	0.00
<b>Subtotal</b>	0.00		<b>1776.95</b>		<b>1776.95</b>	
<b>Interest/Penalty</b>	0.00	0.00	0.00	0.00	0.00	0.00
<b>Real Estate Taxes Owed</b>	0.00		0.00		0.00	
<b>Real Estate Taxes Paid</b>	0.00		<b>1776.95</b>		<b>1776.95</b>	
<b>Special Assessment Owed</b>	0.00		0.00		0.00	
<b>Special Assessment Paid</b>	0.00		0.00		0.00	
<b>Total Owed</b>	0.00		0.00		0.00	
<b>Total Paid</b>	<b>3,553.90</b>	0.00	<b>1776.95</b>		<b>1776.95</b>	
<b>Total Owed Delinquent:</b>	0.00	<b>First Half:</b>	0.00	<b>Full Year:</b>	0.00	
					<b>Surplus:</b>	0.00

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[See how issues on latest ballot could/will affect your taxes](#)

[View Your Tax Bill Online at GeaugaTax.com](#)

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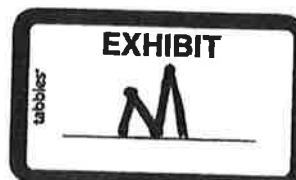
Address: Geauga County Auditor's Office  
231 Main Street, Suite 1-A  
Chardon, OH 44024



Phone: 440-279-1600  
440-285-2222 Ext. 1600  
Newbury & Burton Residents:  
1-888-714-0006 Ext. 1600



Email: [Contact Us](#)  
**HERE**



1-(440) 453  
0580

faith and were a necessary adjunct to the preparation of defendant's case. See *Farmers Union Fidelity Ins. Co. v. Farmers Union Co-operative Ins. Co.*, 147 Neb. 1093, 26 N.W.2d 122.

The order is, therefore, reversed as contrary to law, and the cause remanded to the Municipal Court of Cleveland with instructions to grant defendant's motion to tax costs of depositions as costs in the case.

SKEEL, C. J., and SILBERT and ARTL, JJ., concur.

2. Zoning  $\Rightarrow$  541

When landowner requests relief as to his parcel, after submitting evidence that special conditions are present making intended use not inimical to public interest, township board of zoning appeals, acting in a judicial rather than a legislative capacity, must review situation, re-examine connection between zoning restriction and public welfare and decide whether variance will be permitted. R.C. §§ 2506.01, 2506.04.

3. Zoning  $\Rightarrow$  493

Where all of evidence tended to show that literal enforcement of zoning resolution would restrict use of property without concomitant benefit to public and that such restriction was undue hardship, refusal of variance was unreasonable exercise of board's discretion. R.C. §§ 2506.01, 2506.04.

Thrasher, Dinsmore & Dolan, Chardon, for appellant Louis G. McDonald.

Henry & Hofstetter, Chardon, for appellee Chester Township Trustees.

BROWN, Presiding Judge.

Appellant purchased four acres of ground in Chester Township, Geauga County, Ohio, in 1959. Subsequently, appellant applied for an authorization of a variance from the terms of the zoning resolution, which variance was refused by the Board of Zoning Appeals. Upon appeal, the Court of Common Pleas hearing the matter *de novo* concluded that the action of the Board of Zoning Appeals in refusing the variance was not arbitrary or erroneous, and constituted a reasonable exercise of the board's discretion.

[1] The subject property lay in a residence zone. The variance sought was for a commercial use. It has been clearly held in *Mentor Lagoons, Inc., v. Zoning Board of Appeals of Mentor Township*, 163 Ohio

1. Zoning  $\Rightarrow$  610

Refusal of township board of zoning appeals to grant zoning variance is reviewable on question of reasonableness of such decision. R.C. § 519.14(B).

\* Motion to certify the record overruled (35134), June 19, 1963.

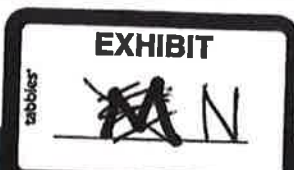


~~106 N.E.2d 333~~

119 Ohio App. 15  
Appeal of McDONALD.\*  
Court of Appeals of Ohio,  
Gauga County.  
Jan. 11, 1963.

Zoning variance case. The Court of Common Pleas upheld Board's refusal of variance, and an appeal was taken. The Court of Appeals, Brown, P. J., held that where all of evidence tended to show that literal enforcement of zoning resolution would restrict use of property without concomitant benefit to public and that such restriction was undue hardship, refusal of variance was unreasonable exercise of board's discretion.

Reversed.



St. 113, 151 N.E.2d 533, that the refusal of the Board of Zoning Appeals to grant a variance is reviewable on the question of the reasonableness of the decision. This review is of vast importance in the general scheme of zoning, since without it a property owner is without remedy in instances involving changing conditions which result in a continuation of a zoning restriction which is no longer in the public interest as to the proposed use of the specific property. This review for this purpose is specifically authorized by Section 519.14(B), Revised Code.

Zoning from its inception was recognized as a deprivation of individual property rights, valid only if such impairment of the full use of the property by the owner was justified by a law enacted pursuant to the police power and reasonably necessary for the preservation of the public health, safety and morals. *Pritz v. Messer*, 112 Ohio St., 628, 149 N.E. 30.

Thereafter, a comprehensive plan of zoning was held to validate a restrictive zoning law, and a long line of cases, cited and followed by the trial court in its opinion, held that this aspect of zoning was a legislative function and not subject to judicial review, if debatable. *Shopping Centers of Greater Cincinnati, Inc., v. City of Cincinnati*, 109 Ohio App. 189, 164 N.E.2d 593. It has been repeatedly held that there is a presumption that such legislation bears a direct relationship to the public welfare so as to require the property owner to show by a preponderance of the evidence that the classification causes serious damage and is not a necessary or reasonable exercise of the police power.

Recognizing that the original plan is valid as an exercise of legislative discretion unless arbitrary, and applying the original presumption that this discretion when exercised was in the public interest, we must observe that the public's interest in the use of various parcels or lots of property will change from time to time so that a compre-

hensive plan originally well designed on occasion becomes archaic and obsolete.

[2] When this is so, the continuance of an obsolete plan is not in the public interest and the restrictions upon the individual's use of his property, originally valid, become an invalid and unconstitutional taking. Comprehensive rezoning is as difficult to actuate as is comprehensive zoning. There is a lethargy connected with rezoning that has an additional political significance. If an individual property owner is aggrieved by this lethargy in the presence of change, he can not demand a renovation of the zoning law by proving its rapid obsolescence. He can, however, request relief as to his parcel under Section 519.14, Revised Code, after submitting evidence that special conditions are present at the time of the application so that the intended use is not contrary to the public interest. When he does so, the township Board of Zoning Appeals acting in a judicial, rather than a legislative, capacity must review the situation, re-examine the connection between the zoning restriction and the public welfare and decide whether the variance will be permitted. This decision is then reviewable by the appeal under Sections 2506.01 and 2506.04, Revised Code, on the ground of reasonableness alone.

The appellant, throughout the trial in the Common Pleas Court, carefully introduced evidence showing the special circumstances which existed in the area where the variance was requested. Among these special circumstances were the following:

1. It was shown that an area immediately adjacent to the subject property had been rezoned for commercial use.

2. It was shown that the state highway number 322 upon which the subject property was located had become an increasingly heavily travelled state thoroughfare so that it was at the time of the application one of the most heavily travelled highways in the township.



3. It was shown that there existed a large installation immediately across the state highway from the subject property, which was known as the Cleveland Illuminating Company's switching plant, and high wire lines; and this installation was so described in the record that it becomes apparent that the presence of this installation is a special circumstance reflecting adversely upon the usefulness of the subject property for the residential purpose for which it is presently zoned.

4. The evidence clearly demonstrated that at a point 300 feet west of the subject property there existed at the time of the application certain installations of the gas company which were in process of being connected with a permanent gas reducing station by that company.

After this evidence, expert testimony was introduced to show that the foregoing special circumstance created a hardship in that the subject property had substantially less value for a residence use than it would have had in the absence of these special circumstances.

It is at this point that a reviewing court in deciding whether the refusal of the variance is a reasonable exercise of the board's discretion must note that some evidence of a substantial nature directed to showing that the restriction on the property continues to be a necessary restriction still in the public interest should be found in the record. We have examined the record and found no such evidence.

It appears from the record that the refusal of the variance was sustained on the ground that the original imposition of the restriction was a legislative act presumptively valid as an exercise of the police power.

[3] Under all the special circumstances existing at the time of this application for variance, all the evidence tends to show that the literal enforcement of the resolution will restrict the use of the property without a concomitant benefit to the public. Such

Ohio Cas. 195-197 N.E.2d-20

restriction is an undue hardship, and the refusal of the variance is an unreasonable exercise of the board's discretion.

The judgment is reversed and the cause remanded to the Board of Zoning Appeals with instructions to authorize the variance.

Judgment reversed.

DONAHUE and WILLIAM BROWN, JJ., concur.

WILLIAM BROWN, J., of the Fourth Appellate District, sitting by designation in the Seventh Appellate District.



FORD MOTOR COMPANY,  
Plaintiff Appellee,

v.

JOHN L. FRAZIER & SONS COMPANY,  
Defendant Appellant.

Court of Appeals of Ohio,  
Cuyahoga County.

Feb. 20, 1964.

Suit on indemnity contract. The Court of Common Pleas, Cuyahoga County, entered judgment for the plaintiff, and the defendant appealed on questions of law. The Court of Appeals held that under indemnity contract providing that contractor should be responsible for claims against contractor or plant owner arising in connection with contractor's work, including work assigned to contractor, based on negligence of contractor, any subcontractor, or owner or its employees, contractor was liable for personal injuries sustained by subcontractor's employee as result of negligence of owner's employee, even though wholly unrelated to job undertaken by contractor.

Judgment affirmed.



**Charles E. Walder, Gauga County Auditor**  
**Joe Catell, Gauga County Engineer PE, PS**



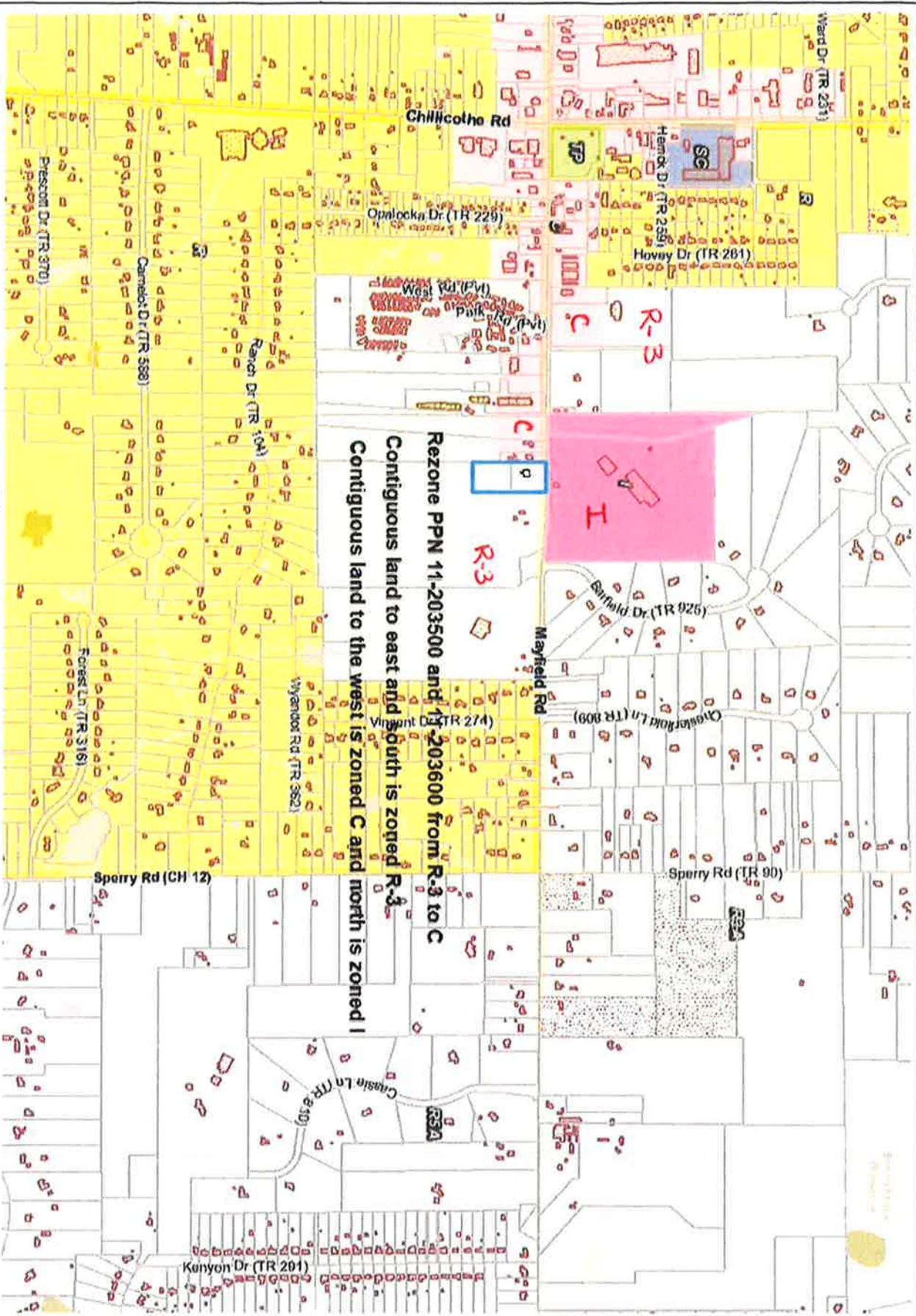
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October 27, 2021

Rezone PPN 11-203500 and 11-203600 from R-3 to C  
Contiguous land to east and south is zoned R-3  
Contiguous land to the west is zoned C and north is zoned I







Geauga REALink



Charles E. Walder, Geauga County Auditor  
Joe Cartell, Geauga County Engineer PE, PS

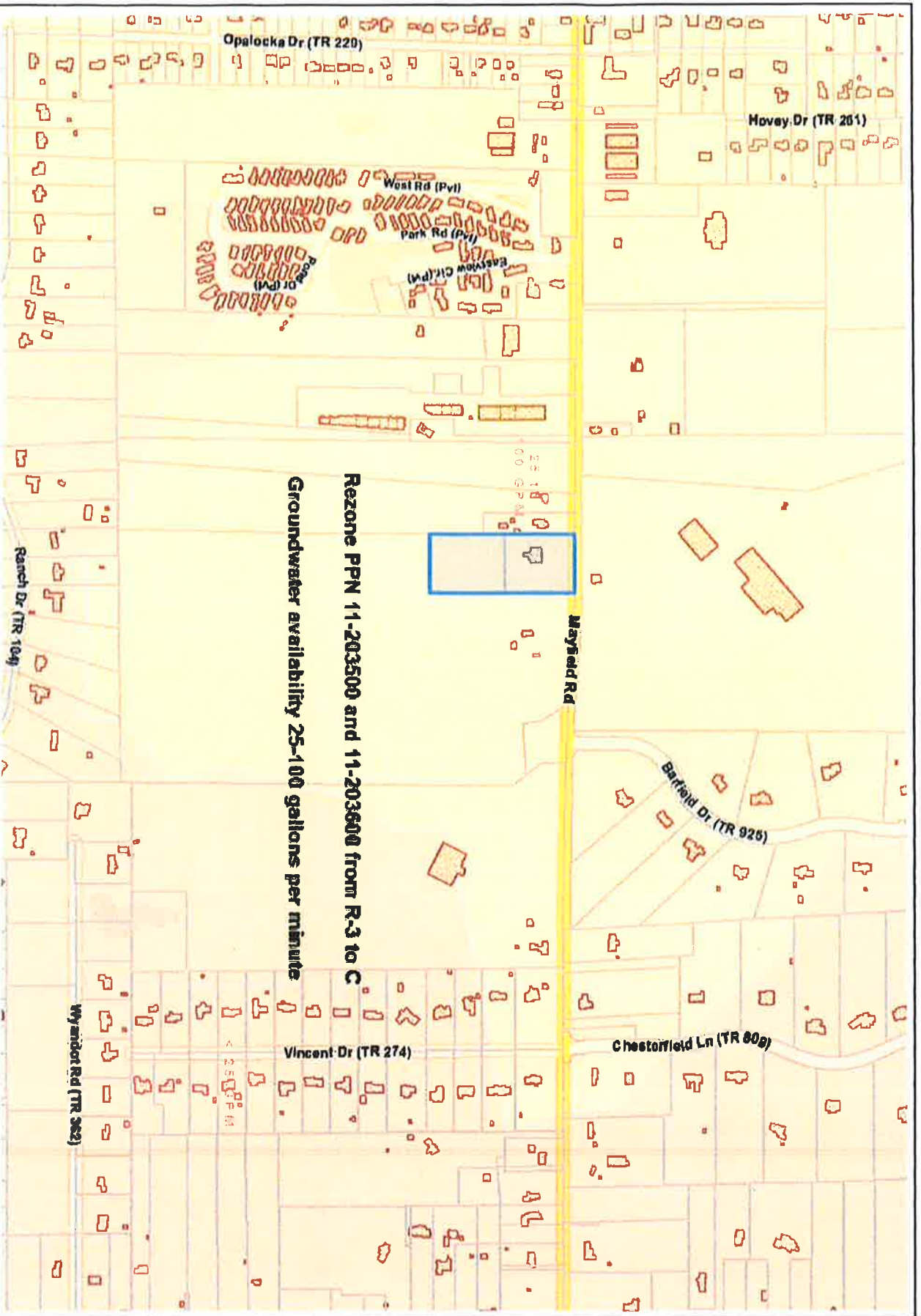


1 inch = 566.08 Feet | Scale: 6,793

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October 27, 2021

Groundwater Yields Map 2





Geauga **REALink**



Charles E. Walder, Geauga County Auditor  
Joe Cattell, Geauga County Engineer PE, PS



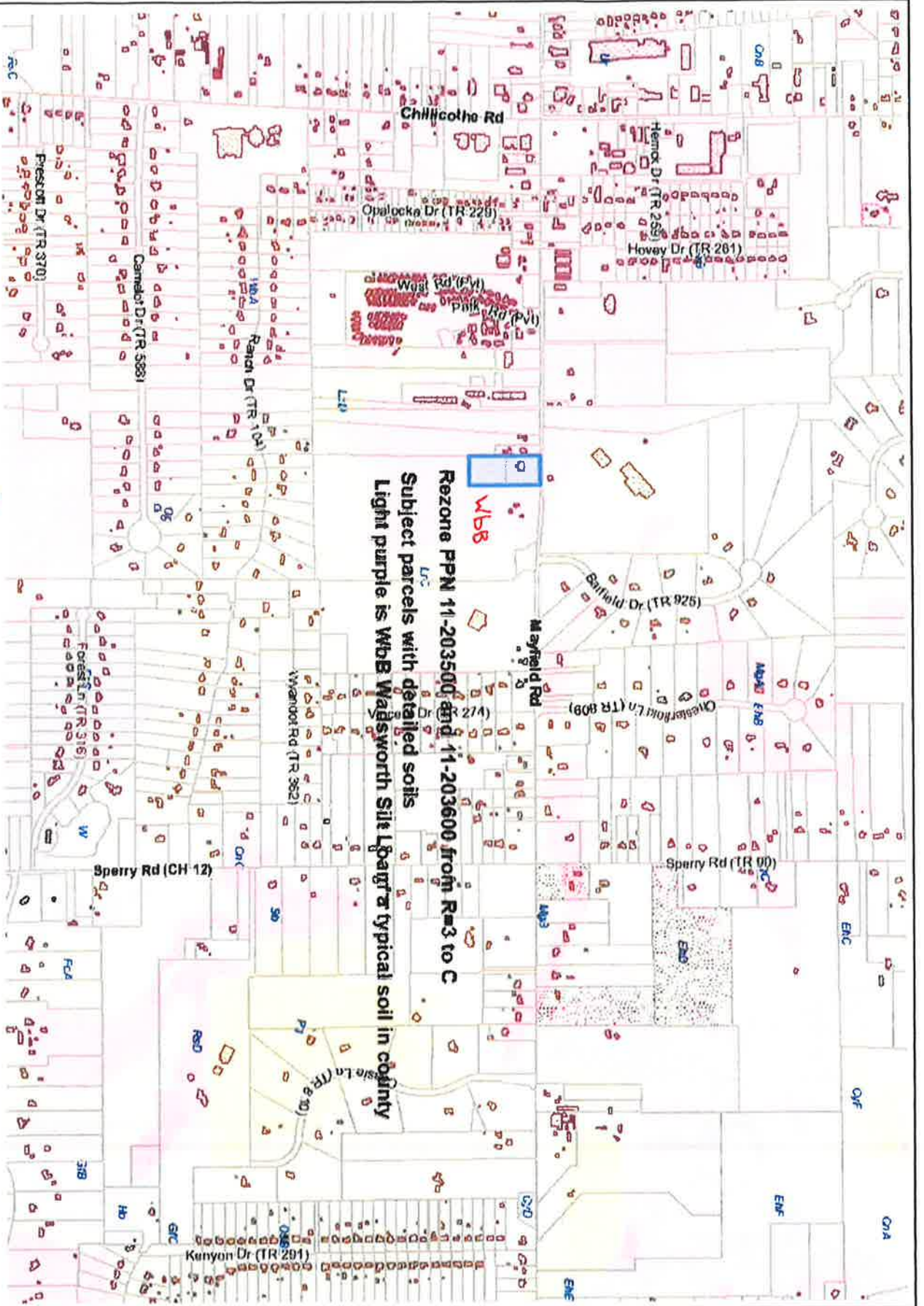
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[www.geauga.gov/gis/geauga\\_gis.asp](http://www.geauga.gov/gis/geauga_gis.asp)

October 27, 2021

Detailed Soils Map 3







Geauga REALink

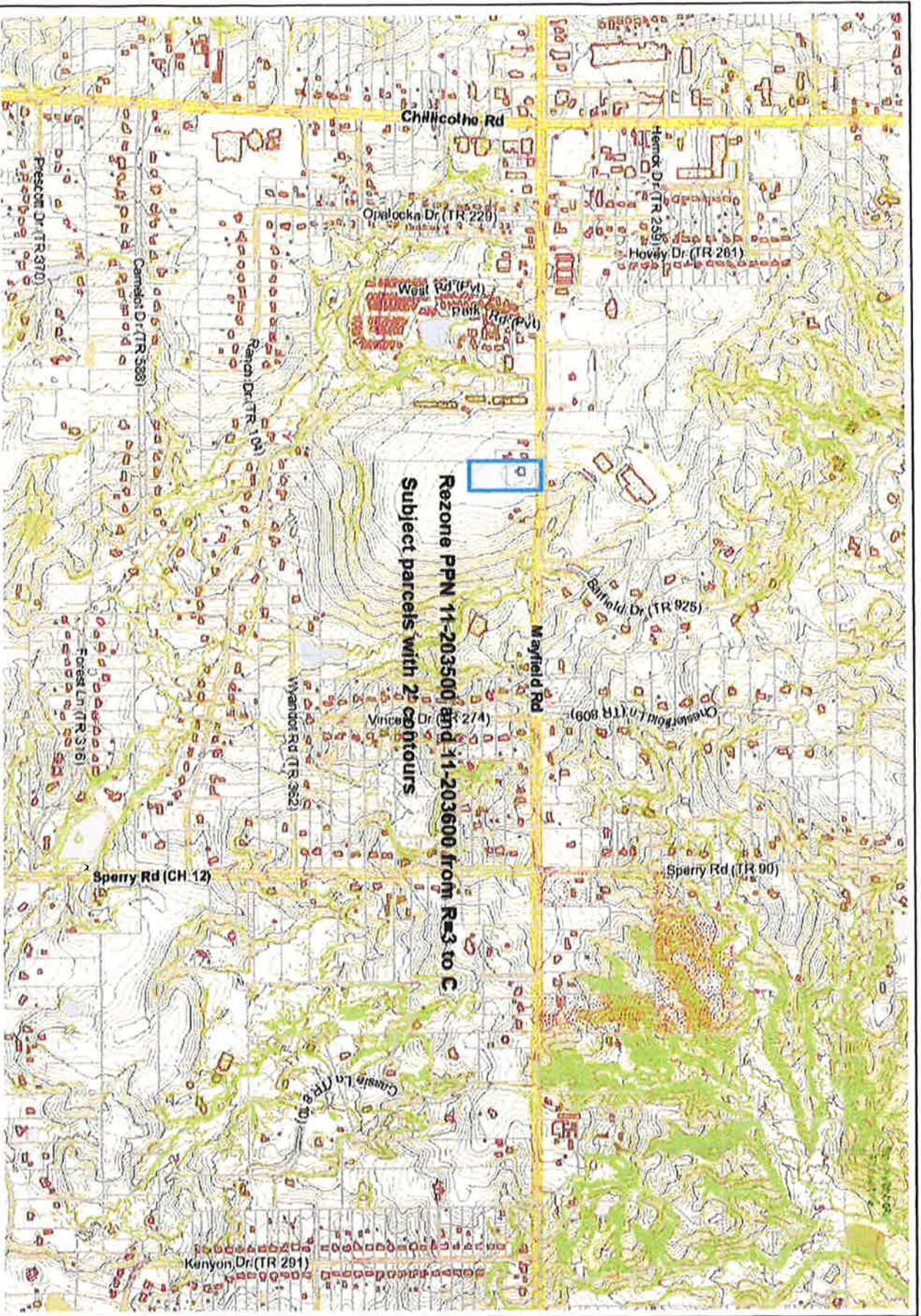


Charles E. Walder, Geauga County Auditor  
Joe Cartell, Geauga County Engineer PE, PS



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www.geauga.org/gis/gisinfo/09-10-11  
October 27, 2021



Rezoning PPN 11-203500 and 11-203600 from Re3 to C  
Subject parcels with 2' contours

2' Contours, Slope

Map A





Geauga REALink



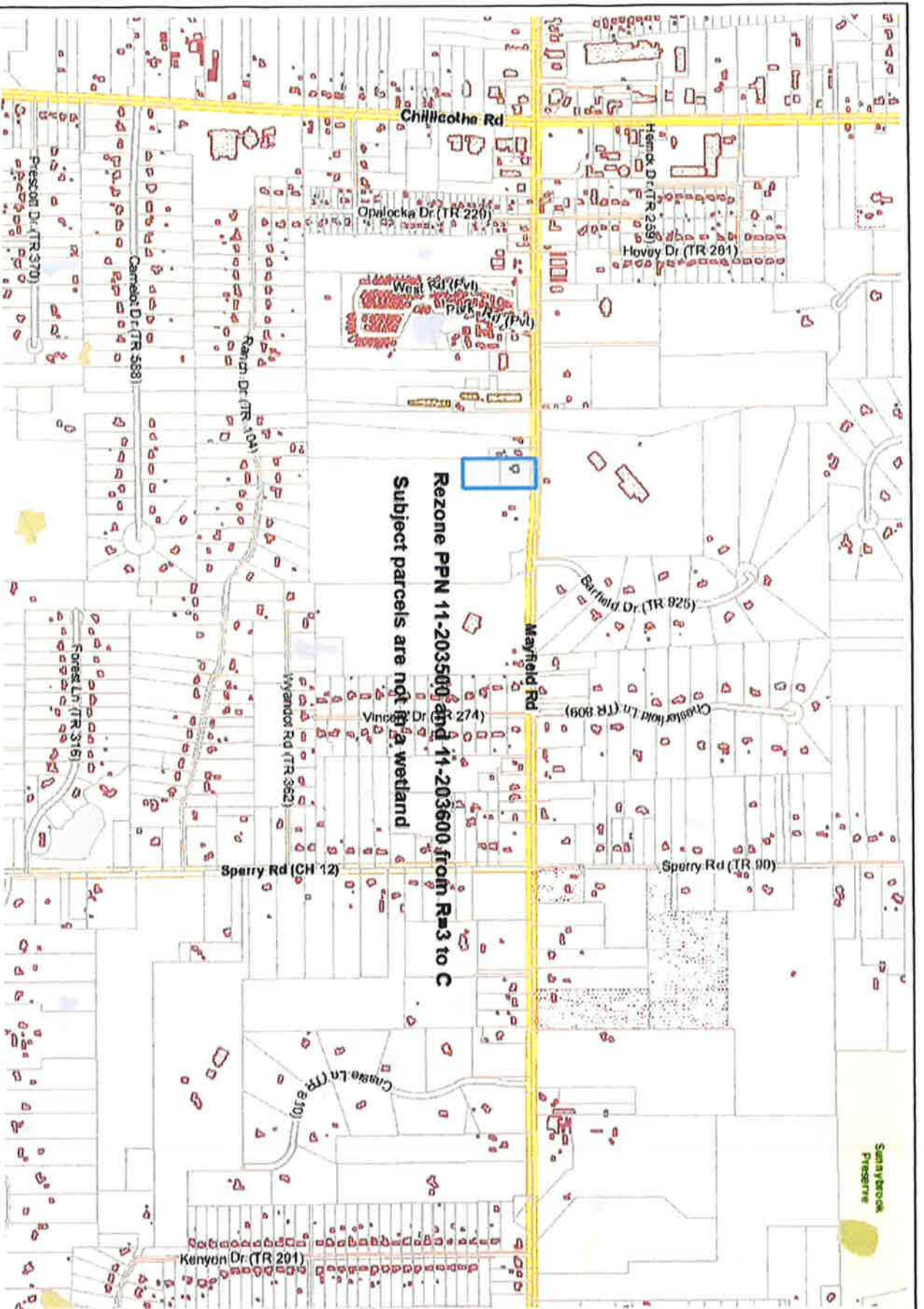
Charles E. Walder, Geauga County Auditor  
Joe Cartell, Geauga County Engineer PE, PS



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October 27, 2021

Wetlands Map 5







Gaucha REALink



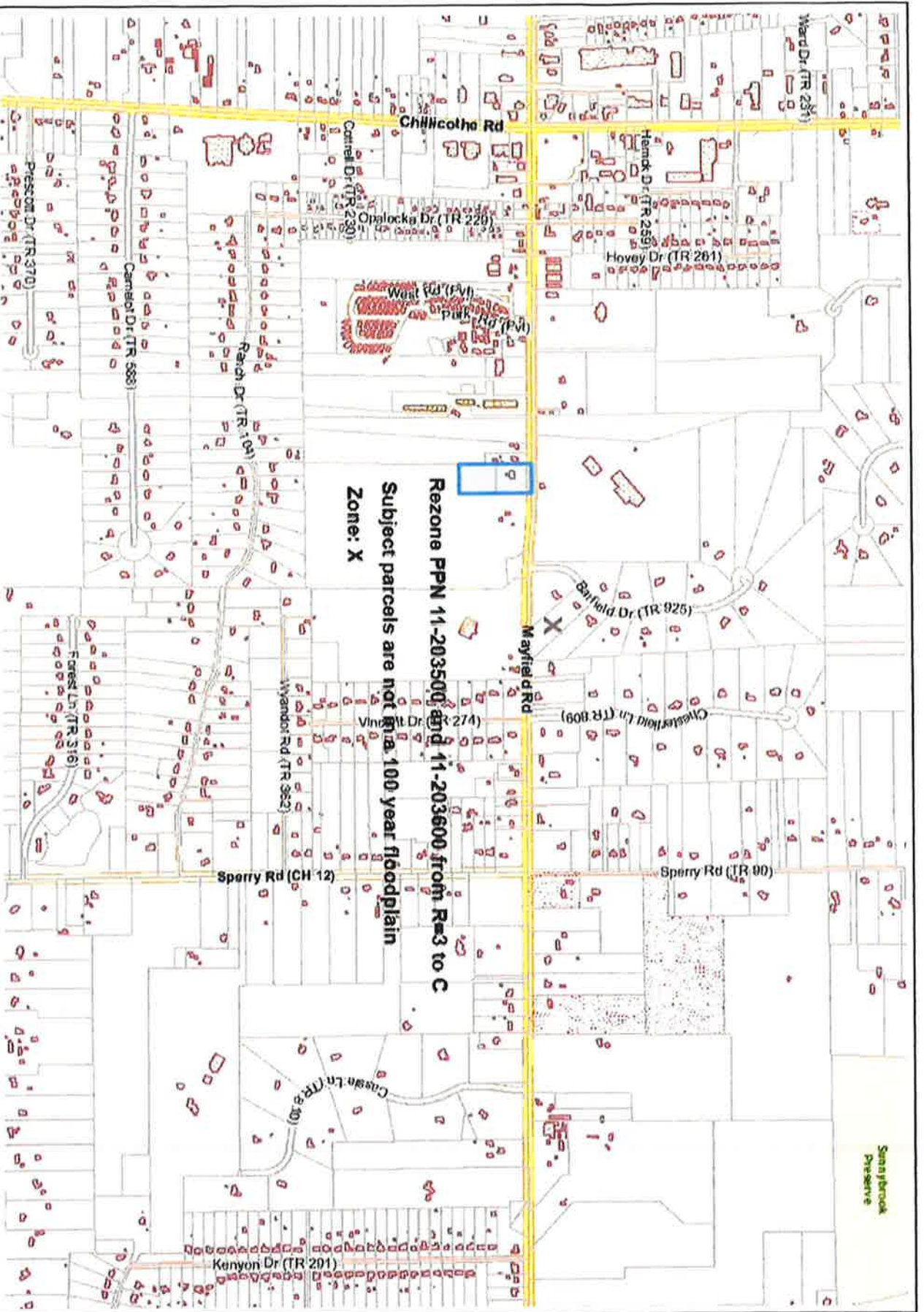
Charles E. Walder, Georgia County Auditor  
Joe Cartell, Georgia County Engineer PE, PS



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October 27, 2021



100 Year Floodplain Map





Gaugu REALink



Charles E. Walder, Gauga County Auditor  
Joe Cartell, Gauga County Engineer PE, PS



1 inch = 370.42 Feet | Scale: 4,445

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October 27, 2021

Existing Land Use Map 1



## Exhibit "J"

Joe Tranchita, Tranchita Enterprises LLC

Zoning Amendment Application

Attach a statement relative to the reason(s) for the proposed amendment and how it relates to the township land use plan.

The subject real property is located at 8833 Mayfield Road (U.S. Route 322) and currently consists of two parcels PPN 11-203500 and 11-203600. It is recorded at volume 1910 page 671 of the Geauga County Deed Records (see Exhibit "G").

PPN 11-203500 has 264.00 feet of frontage on Mayfield Road, a depth of 330.15 feet, and consists of 2.002 acres (see survey by Tom OHara, Exhibit "H").

PPN 11-203600 is contiguous with PPN 11-203500 and has no road frontage. It has 264.43 feet in width, a depth of 330.15 feet, and consists of 2.006 acres (see survey map by Tom OHara, Exhibit "H").

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The two lots of record are to be consolidated so as to eliminate the landlocked parcel and to make the site more in conformity with the C: General Commercial Zoning District standards in the Chester Township Zoning Resolution. The consolidated lot exceeds the minimum dimensional requirements in the C Zone as set forth in Section 5.02.17 of the Zoning Resolution (see survey map by Tom OHara, Exhibit "H" and C District Dimensional Table Section 5.02.17 Exhibit "K").

The existing building size is 3,470 square feet and the minimum is 1,000. The building is 18 feet in height and the ~~minimum~~ maximum is 35 feet. Maximum lot coverage is 60%. The consolidated lot has 12.8% lot coverage. The minimum lot area is two acres and the consolidated lot has 4.008 acres. Minimum lot frontage is 200 feet and the consolidated lot has 264 feet of frontage on Mayfield Road. The minimum front setback is 135 feet from the centerline and the existing building is setback 153.9 feet. The minimum side setback is 20 feet or 40 feet from an adjoining R District. The westerly side setback is 60.1 feet and the easterly side setback (adjacent to the R3A Zone) is 142.9 feet. The minimum rear setback is 60 feet and the existing building is over 300 feet from the rear lot line. The minimum driveway setback from a side lot line is 20 feet. The driveway setback on the consolidated lot is 21.5 feet on the westerly side and 96.0 feet on the easterly side of the lot. (see survey map by Tom OHara, Exhibit "H").

*Note: correction above "minimum" to "maximum" 6/15/22 per current Zoning Resolution.*

## Tranchita Proposed Amendment, 18 May 2022

### Zoning Commission Public Hearing

This amendment proposes to reflect the reality of a court order by revising the legal descriptions in the Commercial District in Chester Township in a specific instance. This expansion is an anomaly and should be recorded in a clear way, so it is not used as a precedent.

This page and the following pages suggest a brief way of doing so:

- Pages 1-2 Explanation;
- Page 3 A suggested modification of "Exhibit E";
- Page 4 A replica of page 4-4 in the current Chester Township Zoning Resolution showing how the suggested modification would fit unobtrusively into the Resolution if the proposed amendment were approved. (Highlighting proposed changes.)

#### History of Article 4, Zoning Districts Defined, Chester Township Zoning Resolution.

- In 2001, the Zoning Commission was advised by the Geauga County Planning Commission (GCPC) to write legal descriptions of the zoning districts.
- The Zoning Commission worked for more than a year, examining all existing permitted commercially zoned parcels. The Z.C. looked at historic use, deeds, and "Grandfathering".
- Some adjustments were made for "Grandfathering"; also, the 500-foot setback was adjusted to coincide with the rear lot line if the margin was within 10% (50 feet). A four-page examination of some of the changes was included in the file. (Note: In common use, the setback is called the "500-foot setback" even though it sometimes exceeds that amount by as much as 50 feet.)
- After the information was gathered, David Short, a member of the Z.C. and a certified surveyor, wrote the legal courses as listed in Article 4. (Note: Other township legal descriptions were found in paragraph form; none were found in Courses which made it simpler to write a clear and brief modification.)
- The next step was certification by a recognized and approved firm.
- All work was approved by the GCPC and its legal staff. The amendment was approved by the Board of Trustees.
- There have been no changes in the area of the Commercial District and only one District change from Residential to Commercial (2008) since inception. Said change, parcel # 11-187500, had some accompanied deed restrictions. No other amendments have been approved concerning Article 4. Some minor changes have been made on the map.

The proposed amendment (with the modification) should be approved for the following reasons:

- The two lots will be consolidated and become part of the C: General Commercial Zone, and therefore must meet the pertinent regulations in Sections 5.02.01 – 5.02.17 of the Current Chester Township Zoning Resolution. (The consolidated lot meets the requirements in Section 5.02.17 Dimensional Requirements in a C District.)
- The Court of Appeals, Geauga County, Jan. 11, 1963: Appeal of McDonald (Case no. 196 N.E.2<sup>nd</sup> 333), granted a commercial use of the premises (four [4] acres) as per the requested variance which will become part of the Commercial Zone as required.
- This results in an expansion of the setback regulations in the existing legal descriptions (Article 4, Section 4.00.01 Zoning Districts Defined, Chester Township Zoning Resolution).



- This deviation by court order is an anomaly and should be clearly recorded since it is significantly large (660') and the only area expansion since the enactment of Article 4 in 2001. (See proposed map.)
- The suggested modification **cites the source and** does so in a brief, inconspicuous statement, also clearly denoting the two pertinent descriptive courses (LV and LVI).

If the proposed amendment is not approved, then:

- The court order **would still remain** in effect as stated above on two (2) lots in the R3A Residential District with a commercial use.
- Any change on the premises that requires a zoning certificate will be regulated by Section 5.01.0 Residential Districts (R, R3A, R5A Districts) and Section 5.02.01 Permitted Principal Buildings, Structures, and Uses in the Commercial District, pages 5-15 through 5-17. (Note: Since a Zoning Resolution is not mentioned in the court ruling, it is not clear if the 1963 or the 2022 Chester Zoning Resolution should be used for the pertinent regulations.)
- Since the court ruling is in effect and the structures on the lot are in place, decisions concerning enforcement are difficult. In general, residential zone regulations are less stringent than commercial zone regulations – except for coverage.
- **The zoning on the two parcels will be out of compliance with the opinion of the court of appeals, and this is an untenable situation.**

**EXHIBIT “E”**

**(Suggested modification)**

**\*Course LV.** Thence easterly along the centerline of said Mayfield Road to the northeasterly corner of parcel ~~#11-205700~~#11-203500;

**\*Course LVI.** Thence along the easterly line of said parcel ~~#11-206700~~ # 11-203500 and ~~#11-205800~~ #11-203600 to a point that is the southeasterly corner of parcel #11-203600; thence westerly along the southerly line of parcel #11-203600 to a point at the southwesterly corner of parcel #11-203600; thence northerly along the westerly line of parcel #11-203600 to a point that is 500 feet distant from, by normal measurement, the centerline of said Mayfield Road;

**\*Compliant with Court of Appeals, Geauga County, Jan. 11, 1963: Appeal of McDonald (Case no.196 N.E.2d 333).**

- Course XXXIX. Thence westerly along the northerly line of said parcel # 11-710900 to the northwesterly corner of said parcel # 11-710900 on the centerline of said Chillicothe Road;
- Course XL. Thence southerly along the centerline of said Chillicothe Road to the intersection of the centerline of said Chillicothe Road with the centerline of Mayfield Road;
- Course XLI. Thence easterly along the centerline of said Mayfield Road to the southeasterly corner of said parcel # 11-710900;
- Course XLII. Thence northerly along the easterly line of said parcel 11-710900 to the northwesterly corner of parcel # 11-713700
- Course XLIII. Thence easterly along the northerly line of said parcel # 11-713700, parcel # 11-124700, to the northeasterly corner of said parcel # 11-124700;
- Course XLIV. Thence southerly along the easterly line of said parcel # 11-124700 to the southeasterly corner of parcel # 11-124700;
- Course XLV. Thence easterly along the northerly line of parcel # 11-015100 and parcel # 11-285550, to the northeasterly corner of said parcel 11-285550;
- Course XLVI. Thence northerly along the westerly line of parcel # 11-388769 to the northwesterly corner of said parcel # 11-388769;
- Course XLVII. Thence easterly along the northerly line of said parcel # 11-388769 to the northeasterly corner of said parcel # 11-388769;
- Course XLVIII. Thence southerly along the easterly line of said parcel # 11-388769 to a point that is 500 feet distant from, by normal measurement, the centerline of said Mayfield road;
- Course XLIX. Thence easterly along a line parallel with and 500 feet distant from, by normal measurement, the centerline of said Mayfield Road to a point on the easterly line of parcel # 11-350500
- Course L. Thence southerly along the easterly line of said parcel # 11-350500 and its southerly projection to the centerline of said Mayfield Road;
- Course LI. Thence easterly along the centerline of said Mayfield Road to a southerly projection of the westerly line of parcel # 11-037400;
- Course LII. Thence northerly along the westerly line of said parcel # 11-037400 and its southerly projection to the northwesterly corner of said parcel # 11-037400;
- Course LIII. Thence easterly along the northerly line of said parcel # 11-037400 and parcel # 11-037500 to the northeasterly corner of said parcel # 11-037500;
- Course LIV. Thence southerly along the easterly line of said parcel # 11-037500 and its southerly projection to the centerline of said Mayfield Road;
- \*Course LV.** Thence easterly along the centerline of said Mayfield Road to the northeasterly corner of parcel # 11-203500;
- \*Course LVI.** Thence along the easterly line of said parcel # 11-203500 and # 11-203600 to a point that is the southeasterly corner of parcel # 11-203600; thence westerly along the southerly line of parcel # 11-203600 to a point at the southwest corner of parcel # 11-203600; thence northerly along the westerly line of parcel # 11-203600 to a point that is 500 feet distant from, by normal measurement, the centerline of said Mayfield Road;

**\*Compliant with Court of Appeals, Geauga County, Jan. 11, 1963: Appeal of McDonald (Case no. 196 N.E.2d 333).**