

REQUESTS FOR COUNCIL ACTION/DISCUSSION

Finance Committee

- 19-095-5/28 – Grant Application – Bryne JAG Grant
- 19-096-5/28 – Amend Ord. 75-19 – MCRC Lifeguard Pay Effective Date
- 19-097-5/28 – Bids, North Taxiway Extension
- 19-098-5/28 – Wheeling & Lake Erie Railroad Crossing Agreement
- 19-099-5/28 – Rezone 1088 S. Court St. – R-3 to C-3
- 19-100-5/28 – Increase Exp. – Core & Main – Water Dept.
- 19-102-5/28 – Purchase 2019 F550 Ford Series SD – Street Dept.

5/28/19

REQUEST FOR COUNCIL ACTION

*OK
D. Hammer
5-17-19*

No. RCA 19-095-5/28

**From: POLICE DEPARTMENT
Chief Edward R. Kinney**

[Signature]

Mayor's Initials:

Committee *Finance & Council*

Guidelines: See information on back of form

Date: 5/17/19

Subject: Permission to Apply for Bryne JAG Grant

Summary and Background

We are requesting approval to apply for the Edward Bryne Memorial Justice Assistance Grant (JAG) in the approximate amount of \$115,889. This grant is a matching grant of 75% state and 25% local dollars. If awarded, this grant can be renewed for up to three additional years at a match of 75/25% year two, 50/50% year three and 25/75% year four. We are requesting this be passed as an emergency measure due to the fact the grant is due June 3, 2019. Grant notification will be November 15, 2019 with the grant running January 1, 2020 to December 31, 2020.

The grant would partially fund a fulltime traffic enforcement officer. This would not be an additional officer but rather an existing officer dedicated to a major issue that causes many citizen complaints in our community. While our officers are doing an outstanding job with traffic enforcement, with 8,594 traffic stops made in 2018 and 3,191 citations issued, it is clear this effort is not enough. The department received 563 citizen complaints about traffic issues and 92 school bus complaints during 2018.

The city owns four data recording speed signs. Analyzing the data shows an enhanced need for a dedicated officer. Fourteen locations revealed speeds averaging 55 miles per hour with 12 of the 14 streets having posted speed limits of 25 or 35 miles per hour. Accidents in 2018 were up by 9.8%. The Speed Enforcement Guidelines from the U.S. Department of Transportation National Safety Association states: "Speed enforcement countermeasures need to be tailored to the particular problems identified in the community and local circumstances." The guidelines further state: "To achieve sustained deterrence, the level of enforcement must be maintained on a schedule that is either continuous or frequent enough to keep speeds down, which is difficult for most law enforcement agencies." This grant, if awarded, will give Medina Police the ability to successfully reduce speeds, making our community safer. Medina has a strong Community Policing Philosophy and this program will exemplify that philosophy.

Estimated Revenue: \$155,889.00

Suggested Funding: New JAG Grant

Sufficient Funds in Account No:

Transfer Needed From: _____ **To:** _____

New Appropriation Needed: N/A

*Res. 82-19
5-28-19*

Account No:

Emergency Clause Requested:

No Yes If yes, reason: Grant Application is due June 3rd.

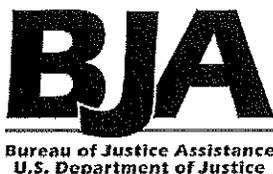
Council Use Only:

Committee Recommendation:

Council Action Taken:

Ord./Res.No:

Date:



Edward Byrne Justice Assistance Grant (JAG) Program Fact Sheet

Updated October 11, 2018

PROGRAM OVERVIEW: The Edward Byrne Memorial Justice Assistance Grant (JAG) Program was created as part of the Consolidated Appropriations Act of 2005, which merged the discretionary Edward Byrne Memorial Grant Program with the formula-based Local Law Enforcement Block Grant (LLEBG) program. The JAG Program, administered by the Bureau of Justice Assistance (BJA), is the leading federal source of criminal justice funding to state and local jurisdictions. The JAG Program provides states, territories, tribes, and local governments with critical funding necessary to support a range of program areas including law enforcement, prosecution and court, prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, and technology improvement, and crime victim and witness initiatives, and mental health programs and related law enforcement and corrections programs, including behavioral programs and crisis intervention teams.

In Fiscal Year (FY) 2018 there was \$269 million available under JAG (approximately \$184.5 million to states and territories and \$84 million to local units of government) and there were 1,148 local jurisdictions and 56 states/territories eligible to apply for funding.

LEGISLATION: Public Law 109-162, Title XI—Department of Justice Reauthorization, Subtitle B—Improving the Department of Justice's Grant Programs, Chapter 1—Assisting Law Enforcement and Criminal Justice Agencies, Sec. 1111 Merger of Byrne Grant Program and Local Law Enforcement Block Grant Program.

FORMULA: The Bureau of Justice Statistics (BJS) calculates, for each state and territory, a minimum base allocation which, based on the congressionally mandated JAG formula, can be enhanced by (1) the state's share of the national population and (2) the state's share of the country's Part 1 violent crime statistics. Once the state funding is calculated, 60 percent of the allocation is awarded to the state and 40 percent to eligible units of local government. For additional details regarding the JAG formula and award calculation process, with examples, please review the JAG technical report.

ELIGIBILITY AND PROGRAM GUIDANCE: All 56 states and territories are eligible, as well as units of local government identified annually in the JAG allocation charts. BJA posts annual JAG program solicitations (program guidance) and allocation charts to its JAG webpage; which also contains a direct link to JAG Frequently Asked Questions, which are updated regularly.

HOW/WHEN TO APPLY: All applications must be submitted via the Office of Justice Programs (OJP) Grants Management System (GMS). FY 2018 State and Local JAG solicitations and allocations can be found on the JAG webpage.

AWARD LENGTH: Awards of at least \$25,000 or more begin October 1 of the FY and are four years in length. Awards that are less than \$25,000 begin October 1 of the FY and are two years in length. Requests for up to two additional years to complete performance of the award will be granted automatically for awards that are less than \$25,000. Extensions beyond a four-year period for all JAG awards may be approved on a case-by-case basis at the discretion of BJA.

MATCH REQUIREMENT: Match is not required.

REPORTING REQUIREMENTS: JAG recipients are required to submit quarterly performance metrics

reports, quarterly Federal Financial Reports (SF-425s) and semi-annual programmatic performance reports depending on award year. Detailed reporting information can be found here: [JAG Reporting Requirements](#).

REDUCTIONS/PENALTIES: Sex Offender Registration and Notification Act (SORNA). SORNA, which is Title I of the Adam Walsh Child Protection and Safety Act of 2006, mandates a 10 percent reduction in a JAG award to a state that has failed to substantially implement SORNA. Further, states that have substantially implemented SORNA have an ongoing obligation to maintain that status each year. A JAG reduction will be applied for each year a jurisdiction has failed to have substantially implemented SORNA.

For additional information regarding SORNA implementation, including requirements and a list of states that will be affected in FY 2018 by the 10 percent reduction to the JAG award, send inquiries to AskSMART@usdoj.gov. Additional SORNA guidance can be found within the SORNA FAQs.

The PREA Standards are set out at 28 C.F.R. Part 115, and apply to confinement facilities including adult prisons and jails, juvenile facilities, and police lockups. Under PREA, if a state's chief executive (e.g., governor) does not certify full compliance with the National PREA Standards, the state is subject to the loss of five percent of certain DOJ grant funds, including JAG award funds, unless: (1) the chief executive submits an assurance to DOJ that no less than five percent of such funds will be used solely for the purpose of enabling the state to achieve and certify full compliance with the PREA Standards in future years; or (2) the chief executive requests that the affected funds be held in abeyance by DOJ. See 34 U.S.C. § 30307(e)(2). For additional information concerning PREA implementation, send inquiries to the PREA Management Office at PREACompliance@usdoj.gov and/or review the [PREA FAQs](#).

NIBRS COMPLIANCE

In FY 2016, the Federal Bureau of Investigation (FBI) formally announced its intention to sunset the Uniform Crime Reporting (UCR) Program's traditional Summary Reporting System (SRS) and replace it with the UCR Program's National Incident-Based Reporting System (NIBRS). By January 1, 2021, the FBI intends for NIBRS to be the law enforcement crime data reporting standard for the nation.

By statute, JAG Program awards are calculated using summary Part 1 violent crime data from the FBI's UCR Program. See 34 U.S.C. § 10156. Once SRS has been replaced by NIBRS, JAG award amounts will be calculated using NIBRS data. In preparation for the FBI's 2021 NIBRS compliance deadline, beginning in FY 2018, BJA is requiring, through the application of a special condition, that direct JAG award recipients not certified by their state (or, as applicable, the FBI) as NIBRS compliant to dedicate three percent of their JAG award toward achieving full compliance with the FBI's NIBRS data submission requirements under the UCR Program. The three percent requirement will assist state and local jurisdictions in working toward compliance to ensure they continue to have critical criminal justice funding available through JAG when SRS is replaced by NIBRS in FY 2021.

REQUEST FOR COUNCIL ACTION

No. RCA 19-096 5/28
Committee: Finance + Council

FROM: Keith H. Dirham
DATE: Monday, May 20, 2019
SUBJECT: Effective Date of Ordinance 75-19

SUMMARY AND BACKGROUND:

I respectfully request that Council clarify that Ordinance 75-19 shall be effective beginning with the Pay Period starting Sunday, May 26, 2019.

I further request that this RCA go to both Finance Committee and Council on Tuesday, May 28 due to the time sensitive nature of the request.

Estimated Cost:

Suggested Funding:

- sufficient funds in Account No.
- transfer needed from Account No. to Account No.
- NEW APPROPRIATION needed in Account No.

Emergency Clause Requested: Yes

Reason: The date needs to be clearly defined in time to pay employees

COUNCIL USE ONLY:

Committee Action/Recommendation:

Council Action Taken:

Ord./Res. Ord. 78-19
Date: 5-28-19

Elizabeth

ORDINANCE NO. 75-19

AN ORDINANCE AMENDING SECTION 31.02(E) OF THE SALARIES AND BENEFITS CODE OF THE CITY OF MEDINA, OHIO RELATIVE TO THE SALARY SCHEDULE PERTAINING TO LIFEGUARDS AT THE MEDINA COMMUNITY RECREATION CENTER, AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEDINA, OHIO:

- SEC. 1:** That Section 31.02(E) of the Salaries and Benefits Code of the City of Medina shall amended by increasing the lifeguard pay rate from an RC9 to an RC14.
- SEC. 2:** That a copy of the amended pay scale is marked Exhibit A, attached hereto and incorporated herein.
- SEC. 3:** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with the law.
- SEC. 4:** That this Ordinance shall be considered an emergency measure necessary for the immediate preservation of the public peace, health and safety, and to not disrupt pool operations for the 2019 season; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and signature by the Mayor.

PASSED: May 13, 2019

SIGNED: John M. Coyne, III
President of Council

ATTEST: Kathy Patton
Clerk of Council

APPROVED: May 14, 2019

SIGNED: Dennis Hanwell
Mayor

REQUEST FOR COUNCIL ACTION

*OK
Dr. Hawley
5-21-19*

NO. RCA 19-097-5/28

FROM: Patrick Patton 

DATE: May 21, 2019

COMMITTEE REFERRAL: Finance

SUBJECT: Authorization to Bid North-Taxiway Extension
City Project #1049

This request is for Council's authorization to advertise, bid and award a contract for the extension of the north-south taxiway at the Medina Municipal Airport. The existing N-S taxiway will be extended approximately 600 feet to the end of the N-S runway.

The engineer's estimate for this project is as follows:

- Printing = \$ 600.
- Advertising = \$ 400.
- Construction = \$ 299,000
- Total Project Cost = \$ 300,000.

This project will be primarily funded through a federal FAA grant and a State of Ohio grant; the funding allocation is thus:

- City funds: \$ 15,950.
- State funds: \$ 14,950.
- FAA funds: \$ 269,100.
- \$ 300,000.

Please be advised, the administration, engineering and project inspection costs are also eligible for funding through these same grants. The total cost for these services is estimated to be \$115,000; the FAA grant will cover 95% (\$103,500) of these costs, the state grant will cover 5% (\$5,750), and the City will be responsible for the remaining 5% (total City cost \$5,750). A request to Council to authorize those services will be submitted at a later date.

Thank you for your consideration.

ESTIMATED COST: \$300,000.

SUGGESTED FUNDING: 547 (\$15,950)
State Grant (\$14,950)
Federal Grant (\$269,100)

Sufficient Funds in Account Number:

Transfer Needed From:
To:

New Appropriation:

Emergency Clause Requested: No

Reason:

COUNCIL USE ONLY:

COMMITTEE RECOMMENDATION:

Council Action Taken:

Ord./Res. Number:

Date:

REQUEST FOR COUNCIL ACTION

OK
R. H. [unclear]
5-21-19

NO. RCA 17-098-5/28

FROM: Patrick Patton 
DATE: May 21, 2019
SUBJECT: Wheeling & Lake Erie Railroad Crossing Agreement
City Project #1024

COMMITTEE
REFERRAL: Finance

This request is for Council's authorization to enter into a crossing agreement with the Wheeling & Lake Erie Railroad to allow us to install a new City water line underneath their tracks on West Smith Road see attached). The fees for this agreement are as follows:

- o \$1,050 application and engineering review fees
- o \$450 document preparation fee for the crossing agreement
- o \$1,000 permit fee

This approval is subject to the Law Director's review.

Thank you for your consideration.

ESTIMATED COST: \$2,500.
SUGGESTED FUNDING: 108

Sufficient Funds in Account Number:

Transfer Needed From:
To:

New Appropriation:

Emergency Clause Requested: Yes

Reason: This project is currently under construction; Wheeling presented us this agreement on May 17, 2019. Failure to approve this agreement with the emergency clause will cause a delay in the project.

COUNCIL USE ONLY:

COMMITTEE RECOMMENDATION:

Council Action Taken:

Ord./Res. Number:

Date:

PUBLIC LIMITS CROSSING AGREEMENT

No. 093668

Between

CITY OF MEDINA

AND

WHEELING & LAKE ERIE RAILWAY COMPANY

Located in the
City of Medina
County of Medina
State of Ohio

Akron Subdivision
Mile Post 138.51
(Lat. $41^{\circ} 8'9.87''N$, Long. $-81^{\circ}53'48.55''W$)



PUBLIC LIMITS CROSSING AGREEMENT
No. 093688

THIS PUBLIC LIMITS CROSSING AGREEMENT, made as of the 17th day of May, 2019 between the **CITY OF MEDINA**, an Ohio municipality, having an address of 132 North Elmwood Avenue, Medina, OH 44256, hereinafter called "UTILITY" and **WHEELING & LAKE ERIE RAILWAY COMPANY**, a Delaware corporation, having an address of 100 East First Street Brewster, OH 44613, hereinafter called "RAILWAY" or "W&LE" (the "Agreement").

I. PREMISES

RAILWAY (which when used herein shall include any successor or assignee of or operator over its RAILWAY) insofar as it has the legal right and its present title permits, and in consideration of the covenants and conditions hereinafter stated on the part of UTILITY, to be kept and performed, hereby permits UTILITY to construct, maintain, repair, alter, renew, and ultimately remove from over or under RAILWAY's track:

[A 12-inch water pipeline in a 20-inch steel casing crossing under the track of RAILWAY at a depth of 9.0 feet below the base of the rails contained within the street limits of W Smith Road on the Akron Subdivision at approximately Mile Post 138.51 (Lat. 41° 8'9.87"N, Long. - 81°53'48.55"W) in the City of Medina, County of Medina and State of Ohio, attached hereto and made a part hereof;]

and in accordance with the drawings attached entitled "**W SMITH ROAD RECONSTRUCTION, PHASE III (SHEET NUMBER 20 OF 46)**", and approved by the Vice President of Engineering of RAILWAY, or his duly authorized representative, incorporated herein by reference; all and any part thereof being hereafter referred to as the "FACILITIES" shall be under and subject to the following terms, covenants, and conditions as hereinafter recited..

II. TERMS AND CONDITIONS

In consideration of the covenants and agreements herein contained and other good and valuable consideration, and intending to be legally bound, it is agreed as follows:

1. RENT/CONSIDERATION.

UTILITY shall pay to RAILWAY upon the execution hereof, the sum of \$450.00 for the preparation of this agreement.

2. CONSTRUCTION.

2.1 The FACILITIES shall be located, constructed and maintained in accordance with the construction plans attached hereto and for the purpose as outlined above. No departure shall be made at any time therefrom except upon permission in writing granted by the Vice President of Engineering of RAILWAY, or his duly authorized representative; provided, however, that if any commission or other regulatory body duly constituted and appointed in compliance with the laws of the State of Ohio, has by lawful ruling or other general order determined and fixed the manner and means of construction, maintenance, repair, alteration, renewal, relocation or removal thereof, then said ruling or general order shall prevail for the crossing or occupancy herein mentioned, provided said ruling or general order does not interfere with or adversely impact the safe use or operation of the property of RAILWAY.

2.2 The work of constructing, maintaining, repairing, altering, renewing, or removing the FACILITIES shall be done under such general conditions as will be satisfactory to and approved by the Vice President of Engineering of RAILWAY, or his duly authorized representative, and will not interfere with the proper and safe use, operation and enjoyment of the property of RAILWAY. UTILITY, at its own

cost and expense, shall, when performing any work in connection with the FACILITIES, arrange with RAILWAY to furnish any necessary inspectors, flagmen or watchmen to see that men, equipment and materials are kept a safe distance away from the tracks of RAILWAY. In any event, UTILITY shall not enter RAILWAY's right-of-way without first notifying and obtaining permission to enter from RAILWAY.

2.3 In addition to, but not in limitation of any of the foregoing provisions, if at any time RAILWAY should deem inspectors, flagmen or watchmen desirable or necessary to protect its operations or property, or its employees, patrons, permittees, or UTILITY during the work of construction, maintenance, repair, alteration, renewal, relocation or removal of the FACILITIES of UTILITY, RAILWAY shall have the right to place such inspectors, flagmen or watchmen at the sole risk, cost and expense of UTILITY, which covenants and agrees to bear the full cost and expense thereof. The furnishing or failure to furnish inspectors, flagmen or watchmen by RAILWAY, however, shall not release UTILITY from any and all other liabilities assumed by UTILITY under the terms of this Agreement.

3. ADDITIONS.

If UTILITY desires or is required, as herein provided, to revise, renew, or alter in any manner whatsoever the FACILITIES, it shall submit plans to RAILWAY and obtain the written approval of the Vice President of Engineering of RAILWAY, or his duly authorized representative, before any work or alteration of the structure is performed and the terms and conditions of this Agreement with respect to the original construction shall apply thereto.

4. MAINTENANCE.

4.1 UTILITY shall at all times be obligated to promptly maintain and repair the FACILITIES; and shall, upon notice in writing from RAILWAY and requiring it so to do, promptly make such repairs thereto as may be required by RAILWAY. However, in no event shall UTILITY enter RAILWAY's right-of-way without first notifying and obtaining permission to enter from RAILWAY.

4.2 In the event of an emergency, UTILITY will take immediate steps to perform any necessary repairs, subject to first immediately notifying and obtaining permission to enter from RAILWAY.

5. GOVERNMENT COMPLIANCE.

UTILITY shall comply with all federal, state and local laws, and assume all cost and expense and responsibility in connection with the FACILITIES, without any liability whatsoever on the part of RAILWAY.

6. INDEMNIFICATION.

6.1 IT IS UNDERSTOOD BETWEEN THE PARTIES HERETO THAT THE OPERATION OF RAILWAY AT OR NEAR SAID FACILITIES INVOLVE SOME RISK, AND UTILITY AS PART OF THE CONSIDERATION FOR THIS AGREEMENT HEREBY RELEASES AND WAIVES ANY RIGHT TO ASK FOR OR DEMAND DAMAGES FOR OR ON ACCOUNT OF LOSS OF OR INJURY TO THE FACILITIES (AND CONTENTS THEREOF) OF UTILITY THAT ARE OVER, UNDER, UPON OR IN THE PROPERTY, TRACK, OR FACILITIES OF RAILWAY INCLUDING THE LOSS OF OR INTERFERENCE WITH SERVICE OR USE THEREOF AND WITHOUT REGARD TO WHETHER ATTRIBUTABLE (IN WHOLE OR IN PART) TO THE FAULT, FAILURE OR NEGLIGENCE OF RAILWAY OR OTHERWISE.

6.2 AND UTILITY ALSO COVENANTS AND AGREES TO AND SHALL AT ALL TIMES INDEMNIFY, PROTECT AND SAVE HARMLESS RAILWAY FROM AND AGAINST ALL COST OR EXPENSE RESULTING FROM ANY AND ALL LOSSES, DAMAGES, DETRIMENTS, SUITS, CLAIMS, DEMANDS, COSTS AND CHARGES WHICH RAILWAY MAY DIRECTLY OR INDIRECTLY SUFFER, SUSTAIN OR BE SUBJECTED TO BY REASON OF OR ON ACCOUNT OF THE

CONSTRUCTION, PLACEMENT, ATTACHMENT, PRESENCE, USE, MAINTENANCE, REPAIR, ALTERATION, RENEWAL, OR REMOVAL OF THE FACILITIES IN, ON, ABOUT OR FROM THE PREMISES, TRACK, OR FACILITIES OF RAILWAY WHETHER SUCH LOSSES AND DAMAGES BE SUFFERED OR SUSTAINED BY RAILWAY DIRECTLY OR BY ITS EMPLOYEES, PATRONS, OR LICENSEES, OR BE SUFFERED OR SUSTAINED BY OTHER PERSONS OR CORPORATIONS, INCLUDING UTILITY, ITS EMPLOYEES AND AGENTS WHO MAY SEEK TO HOLD RAILWAY LIABLE THEREFOR, AND WITHOUT REGARD TO WHETHER ATTRIBUTABLE (IN WHOLE OR IN PART) TO THE FAULT, FAILURE OR NEGLIGENCE OF RAILWAY OR OTHERWISE.

6.3 IF A CLAIM OR ACTION IS MADE OR BROUGHT AGAINST EITHER PARTY AND FOR WHICH THE OTHER PARTY MAY BE RESPONSIBLE HEREUNDER IN WHOLE OR IN PART, SUCH OTHER PARTY SHALL BE NOTIFIED AND PERMITTED TO PARTICIPATE IN THE HANDLING OR DEFENSE OF SUCH MATTER.

6.4 To protect, in whole or in part, its primary obligations under the indemnification provisions of this Agreement, UTILITY shall obtain and carry at its own cost contractual insurance in such form as shall be approved by RAILWAY covering the liability assumed by UTILITY herein, in the following amounts: Bodily Injury \$5,000,000 for each person and \$5,000,000 for each incident; Property Damage \$5,000,000 for each incident. UTILITY shall furnish RAILWAY an appropriate certificate or certificates of insurance executed by an authorized representative of the insurer, evidencing the maintenance of the insurance coverage required herein and containing a provision to the effect that the insured will give RAILWAY at least ten (10) days' prior written notice of any cancellation or modification of any such insurance policy. The aforesaid insurance requirement shall not be deemed to limit or relieve the primary liability of UTILITY under the indemnification provisions hereof, but shall be deemed additional security therefor.

6.5 If UTILITY contracts for new construction or structural alterations to the premises, UTILITY shall provide or shall cause its contractor to provide, at no cost to RAILWAY, Protective Liability Insurance designating RAILWAY as a named insured, with a limit of not less than Five Million Dollars (\$5,000,000.00) per occurrence subject to a Ten Million Dollars (\$10,000,000.00) aggregate limit for all bodily injury and property damage occurrences during each annual policy period. If the construction or alterations involve an exposure to train operations on tracks of RAILWAY, the protective liability insurance shall be on the AAR-AASHTO Form of RAILWAY Protective Insurance. The original protective liability policy shall be submitted to and approved by RAILWAY's Director Real Estate at 100 East First Street, Brewster, Ohio 44613, prior to commencement of the construction or alterations. Said address shall be the name insured's address for the purpose of all notices from the insurer.

7. UTILITY'S COST.

All cost and expenses in connection with the construction, maintenance, repair, alteration, renewal, and removal of the FACILITIES shall be borne by UTILITY.

8. CROSSING OR GRADE RELOCATION.

UTILITY shall at its sole cost and expense, upon request in writing of RAILWAY, promptly change the location of said FACILITIES covered by this Agreement, where located over, upon or in the property or facilities of RAILWAY, to another location, to permit and accommodate changes of grade or alignment and improvements in or additions to the facilities of RAILWAY upon land now or hereafter owned or used by RAILWAY to the extent that said construction shall at all times comply with the terms and conditions of this Agreement with respect to the original construction.

9. **REMOVAL.**

Upon the removal or abandonment of the FACILITIES covered hereby, all the rights of UTILITY hereunder shall cease, and this instrument shall become null and void.

10. **SUBSIDENCE.**

In the event the FACILITIES consist of an underground occupation, UTILITY will be responsible for any settlement caused to the roadbed, right of way and/or tracks, facilities, and appurtenances of RAILWAY arising from or as a result of the installation of the FACILITIES for the term of this Agreement and UTILITY agrees to pay to RAILWAY on demand the full cost and expense therefor.

11. **ELECTRICAL INTERFERENCE.**

In the event the FACILITIES consist of electrical power or communication wires and/or appurtenances, UTILITY shall at all times be obligated promptly to remedy any inductive interference growing out of or resulting from the presence of the FACILITIES; and if UTILITY should fail to do so, then RAILWAY may do so, and UTILITY agrees to pay to RAILWAY on demand the full cost and expense therefor.

12. **TAX ASSESSMENTS.**

As part of the consideration of this Agreement, UTILITY covenants and agrees that no assessments, taxes or charges of any kind shall be made against RAILWAY or its property by reason of construction of the FACILITIES of UTILITY, and UTILITY further covenants and agrees to pay to RAILWAY promptly the full amount of any assessments, taxes or charges of any kind which may be levied, charged, assessed or imposed against RAILWAY or its property by reason of the construction and maintenance of the FACILITIES of UTILITY.

13. **EXCLUSIVE LICENSE.**

The rights conferred hereby shall be the privilege of UTILITY only, and no assignment or transfer hereof shall be made without the consent and agreement in writing of RAILWAY being first had and obtained.

14. **TERMINATION.**

In the event of a breach of any of the covenants, terms and conditions hereof by UTILITY, RAILWAY shall have the right to terminate this Agreement.

15. **EFFECTIVE DATE.**

This Agreement shall take effect as of the day RAILWAY executes it, subject to the provisions of Paragraph 16.

16. **APPROVAL.**

This Agreement will not become valid until the method of installation and all related matters have been approved by the Vice President of Engineering of RAILWAY, or his duly designated representative.

17. **SPECIFICATION.**

In the design, construction, arrangement and maintenance of the FACILITIES, the Rules and Specifications of the Public Utilities Commission of Ohio covering the construction at crossings of

underground line of public utilities, shall govern, if applicable; if not applicable, the decision of the Vice President of Engineering of RAILWAY, or his duly authorized representative, shall govern and control.

18. ENTRY NOTICE.

UTILITY agrees to contact the Vice President of Engineering of RAILWAY, or his duly authorized representative, in advance, and receive his approval before entering upon the right-of-way of RAILWAY for any reason. And at the discretion of the Vice President of Engineering of RAILWAY, or his duly authorized representative, UTILITY must schedule flag protection before entering upon the right-of-way of RAILWAY, which is provided by RAILWAY at the expense of UTILITY.

19. FIBER CABLE and SIGNAL CABLES LOCATION.

It is the responsibility of UTILITY to have knowledge of, locate, and protect against damage to fiber optic cables along, across or under the right-of-way of RAILWAY. Any damage to or disruption of any fiber optic cable will be the sole responsibility of UTILITY which will indemnify and hold harmless RAILWAY for any expense resulting therefrom. Before any construction may commence, Ohio Utilities Protection Services (OUPS) must be contacted, where applicable, at the following number: 1-800-362-2764. Calling such number or numbers shall not release or otherwise diminish the remaining obligations of UTILITY hereunder. **UTILITY shall contact the Signals and Communications Supervisor of RAILWAY, or his duly authorized representative, to have all signal cables marked and located. RAILWAY is NOT registered with any underground utility notification service and must be contacted directly to ensure all RAILWAY facilities are accounted for, i.e. signal cables, electric services, culverts, conduits, data lines, communication cables, fiber, water lines, gas lines, sewage, storm drains, bridge footers, and pilings, etc. All expenses incurred by RAILWAY for such services will be invoiced to, and paid by, UTILITY.**

20. GENERAL PROVISIONS.

20.1 A determination that any part of this Agreement is invalid shall not affect the validity or enforceability of any part of this Agreement.

20.2 This Agreement shall be governed by the laws of the State of Ohio.

20.3 As used in this Agreement, the words, "RAILWAY" and "UTILITY" shall include the respective subsidiaries, directors, officers, agents, and employees of RAILWAY and UTILITY.

20.4 This Agreement is for the exclusive benefit of the parties and not for the benefit of any other party. Nothing herein contained shall be taken as creating or increasing any right in any third party to recover by way of damages or otherwise against RAILWAY and UTILITY.

20.5 Section headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement.

20.6 This Agreement contains the entire agreement of the parties and supersedes any prior written or oral understanding, agreements or representations.

20.7 This Agreement may not be amended, waived or discharged except by an instrument in writing signed by the parties.

20.8 All words, terms, and phrases used in this Agreement shall be construed in accordance with their generally applicable meaning in the railroad industry.

20.9 Except as otherwise provided in this Agreement, all notices to be sent from one party to the other shall be in writing and mailed by United States certified mail, postage prepaid. Notices

directed to RAILWAY shall be addressed to Wheeling & Lake Erie Railway Company, 100 East First Street, Brewster, OH 44613. Notices directed to UTILITY shall be sent to the address first listed above for UTILITY.

III. EXECUTION

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered, in duplicate, as of the day and year first above written.

CITY OF MEDINA

**WHEELING & LAKE ERIE RAILWAY
COMPANY**

Print Name

Print Name

Signature

Signature

Title

Title

Date

Date

STATE OF OHIO §
COUNTY OF MEDINA §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____, as _____ of the City of Medina, an Ohio municipality.

(SEAL)

Notary Public

My Commission Expires: _____
Commission No.: _____

STATE OF OHIO §
COUNTY OF STARK §

This instrument was acknowledged before me on the ____ day of _____, 2019, by _____, as _____ of Wheeling & Lake Erie Railway Company, a Delaware corporation.

(SEAL)

Notary Public

My Commission Expires: _____
Commission No.: _____

OK Jonathan
5-28-19

No. RCA 19-099-5/28

REQUEST FOR COUNCIL ACTION

FROM: Jonathan Mendel, Community Development Director Committee: Finance

DATE: May 21, 2019

SUBJECT: May 9, 2019 Planning Commission Recommendation to rezone 1088 S. Court Street from R-3, High Density Residential to C-3, General Commercial.

SUMMARY AND BACKGROUND:

On May 9, 2019, the applicant requested rezoning the property at 1088 S. Court Street from R-3, High Density Urban Residential to C-3, General Commercial. After reviewing the applicant's request and staff's analysis, the Planning Commission **recommended** the requested rezoning to City Council.

The requested rezoning is delineated for the City Council in the below attached documents:

- May 9, 2019 staff report & packet
- May 16, 2019 Planning Commission recommendation resolution
- May 9, 2019 Planning Commission – #P19-13 draft meeting minutes

Since a rezoning requires a City Council public hearing, staff suggests the following timeline:

- May 28, 2019 – Finance Cttee of City Council review
- May 29, 2019 to July 7, 2019 – Minimum 30 day notice period for the City Council Public hearing
- July 8, 2019 – Public Hearing before the City Council
- August 26, 2019 – Ordinance review by City Council

Estimated Cost: Not Applicable
Suggested Funding: Sufficient funds in Account No.

Transfer needed from Account No. to Account No.
NEW APPROPRIATION needed in Account No.

Emergency Clause Requested: N/A
Reason:

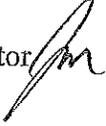
COUNCIL USE ONLY:
Committee Action/Recommendation:

Council Action Taken: Ord./Res.
Date:

May 9, 2019 staff report
& packet



CITY of MEDINA
Planning Commission
May 9, 2019 Meeting

Case No: P19-13
Address: 1088 S. Court St.
Applicant: Tucker Ellis, LLP representing Trillium Creek, LLC
Subject: Request to rezone 1088 S. Court St. from R-3 to C-3
Submitted by: Jonathan Mendel, Community Development Director 

Subject Site:

The subject property is 0.92 acres on the ^{east}west side of S. Court Street at the City of Medina corporation boundary. The site is occupied by a 2,369 sqft one-story principal building, a 2,029 sqft accessory building and accessory vehicle circulation areas.

Project Introduction:

The applicant requests rezoning the property from R-3, High Density Urban Residential to C-3, General Commercial. At the moment, applicant wishes to develop the property with a bank ATM drive-thru, but this is not a permitted use within the R-3 district and is a conditionally permitted use within the C-3 district.

The applicant went before the Board of Zoning Appeals on April 11, 2019 requesting a Land Use Variance to develop the subject site with the bank ATM drive-thru and was denied the Land Use Variance. The applicant also went before the Planning Commission for Site Plan Approval, which was approved with the condition that the subject property be rezoned to C-3.

Please find attached to this report:

1. Applicant's narrative in support of the rezoning and site plans received April 17, 2019
2. Current City of Medina Zoning Map
3. Future Land Use map from the City of Medina 2007 Comprehensive Plan Update and a detail of the subject property's immediate vicinity on the map
4. C-3, General Commercial Principally Permitted and Conditionally Permitted use tables
5. Aerial photograph with City of Medina Zoning Districts overlay.

Present Zoning:

The subject property is presently zoned R-3, High Density Urban Residential. The permitted uses include single-family detached dwellings. The conditionally permitted uses include two-family dwellings, group homes, schools, churches, etc. Commercial uses are not permitted in the R-3 zoning district.

Proposed Zoning:

The applicant proposes rezoning the subject properties to C-3 General Commercial. This zoning district permits a wide range of commercial uses such as office, retail, commercial entertainment and auto sales. The conditionally permitted uses are a range of uses such as multi-family dwellings, churches, gas stations and restaurants with drive through.

The applicant provides discussion points to support the request to rezone from R-3 to C-3, which are attached in the packet.

2007 City of Medina Comprehensive Plan Update – Future Land Use Map:

The Future Land Use map in the Comprehensive Plan Update is a visual guide to future municipal planning and land use within the city. The map currently designates the subject property ‘Residential High Density’ as part of a specific area of the same designation to the north encompassing properties on the eastside of the S. Court and Sturbridge Dr.

Staff Comment:

In evaluating the proposed rezoning, the following items must be considered:

- Consistency with the 2007 City of Medina Comprehensive Plan Update – Future Land Use Map
- Consider all possible permitted and conditionally permitted uses in the proposed zoning district.
- Intrusion of commercial development and change of neighborhood land use character

The City’s 2007 Comprehensive Plan Update designates the subject property as ‘Residential High Density’, which is consistent with the multi-family development patterns on neighboring properties to the north along the eastside of S. Court St. The future land use map designation represents the community’s wishes that the subject property’s future development be consistent with the designation and predominant land use and development pattern on the greater southeast corner of S. Court St. and Sturbridge Dr.

To be consistent with the Future Land Use Map designation, the more appropriate zoning district for the subject property would be the R-4, Multi-Family Residential.

The applicant does outline the potential limited impact of the proposed development for the subject property (drive-thru bank ATM), but best practice when considering a rezoning is to also consider the appropriateness of all the permitted and conditionally permitted uses (attached). The principally permitted uses in the C-3 includes a wide

range of land uses such as restaurant, retail store, professional office, hotel/motel, car sales, motor vehicle repair, etc. The conditionally permitted use range from multi-family, place of worship, gas station, child day care center, etc.

The permitted and conditionally permitted uses similar to those in the C-3 district may have been considered too intensive for the east side of the 1000 block of S. Court St. during the 2007 Comprehensive Plan creation process. During the creation process, it may have been determined the multi-family/high density residential development pattern that had occurred on the adjacent properties to the immediate north and east should continue to be a future development pattern for the immediate vicinity including the subject property.

Recommendation:

Staff **does not recommend rezoning** the subject property from R-3, High Density Urban Residential to C-3, General Commercial because of the following reasons:

1. The C-3 district is not consistent with the 2007 City of Medina Comprehensive Update - Future Land Use Map designation of 'Residential High Density'.
2. The C-3 district full range of permitted and conditionally permitted uses have greater potential for negative impacts on the surrounding residential land uses.

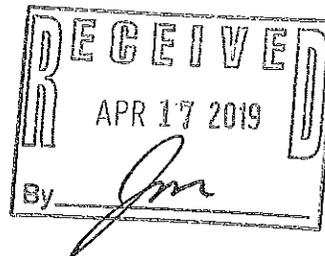
Applicant's narrative
in support of the
rezoning and site
plans received April
17, 2019

Tucker Ellis | LLP

Addendum to Rezoning Application (Map Amendment)

City of Medina
Planning Director and Planning Commission
1088 S. Court Street, Medina Ohio (the "Property")
Trillium Creek, LLC (the "Applicant")

April 17, 2019



To the Planning Director and Planning Commission:

This Addendum to Rezoning Application (this "Addendum") is hereby incorporated into the Boards and Commissions Application for Zoning Approval (the "Application") of the referenced Applicant filed in connection herewith. This Addendum is intended to provide, in addition to the copies of all plan submittals, the information required in connection with the Application, including a statement supporting the proposed amendment to the zoning map.

Request

The Applicant hereby respectfully requests an amendment to the zoning map reclassifying the Property from the R-3 High Density Urban Residential zoning classification as contained within the provisions of the Codified Ordinances of Medina, Ohio (the "Code"), Chapter 1125, to the C-3 General Commercial District zoning classification as contained within the provisions of Code Chapter 1137.

Description of Proposed Work

The Applicant proposes the development of the vacant portion of the Property abutting S. Court Street for the installation of a KeyBank ATM kiosk (the "Work") in accordance with the plans and specifications included herewith (the "Plans"). The Work will include the installation of a thirty-six foot (36') concrete apron on S. Court Street at the southern boundary of the Property, with a circular access drive as depicted on the "Site Plan" included with Plans. The access drive will incorporate a passing lane to allow customers to bypass the ATM kiosk.

The existing landscaping mound along the northern boundary of the Property, and the existing buildings and vegetation along the eastern boundary of the Property, will remain as indicated on the Landscape Plan included with the Plans. It is anticipated that approximately three (3) existing trees will be removed.¹

Statement in Support of Rezoning

The intent of the Applicant's requested rezoning is to bring the zoning classification of the Property into conformance with the character of the surrounding area. The current R-3 zoning classification has been rendered obsolete and economically infeasible due to the substantial and ongoing commercial development of the properties along South Court Street. The City's Comprehensive Plan Update and Future Land Use Map (the "Plan") indicate the zoning relative to the Property should change. Therefore, even the City's own Plan says that, at minimum, the current R-3 zoning classification is inappropriate. The question becomes, what is

¹ The Applicant received Site Plan approval from the Planning Commission on April 11, 2019, subject to the condition that the existing driveway located on the northern boundary of the Property be removed and all ingress and egress be directed through the southern driveway depicted on the Site Plan. Site Plan approval was also conditioned upon approval of all building permits, site development approval, and the rezoning of the Property as requested in this application.

the property zoning? The Applicant submits that a map amendment to the C-3 zoning classification is appropriate.

The requested rezoning is not only proper in light of the substantial commercial development in the area, but is required by Ohio law. *City of Norwood v. Horney*, 110 Ohio State 3d, 353, 853 N.E.2d 1115 (2006) provides:

Ohio has always considered the right of property to be a fundamental right. There can be no doubt that the bundle of venerable rights associated with property is strongly protected in the Ohio Constitution and must be trod upon lightly, no matter how great the weight of other forces.

Id. at 363. The requested rezoning will protect the Applicant's fundamental property rights, as well as advance legitimate governmental purposes as required by Ohio law. One of the primary factors to be considered in this regard is whether the R-3 zoning classification arbitrarily imposes regulations that are inconsistent with the character of the surrounding area or substantially similar properties. *Shero v. Mayfield Heights*, 88 Ohio St. 3d 7 (2000).

Currently, the Property is zoned R-3 High Density Urban Residential², which permits a Single-Family Detached Dwelling as a principally permitted use, and conditionally permits the following:

Residential	Public/Semi-Public	Commercial
• Group Home up to 8 Individuals	• Cemetery ^{3,7,20}	• None
• In-Law Suite	• Conservation Use	
• Two Family Dwelling	• Public or Quasi-Public Owned Park or Recreation Facility ^{1, 2, 3, 4, 5, 9, 11, 14, 22, 24, 25}	
• Nursing Home, Assisted Living Facility, Independent Living Facility ^{1,2,3,5,7,9,11,14}	• Public and Parochial Educational Institution for Primary Education ^{1,2,3,5,6,11}	
• Mobile Home Park ^{3,5,8,9,10,11,14,24,26,27, 28,30}	• Public and Parochial Educational Institution for Secondary Education ^{1,2,3,4,5,7,11}	
	• Publicly Owned or Operated Governmental Facility ^{3, 7, 8, 11}	
	• Religious Place of Worship ^{1,3, 7,11,12,14}	

(See Code Sections 1125.02 and .04).

However, these uses are wholly inconsistent with the commercial nature of the South Court Street corridor, as it has developed over the years. The permitted and conditionally permitted

² All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Code.

uses under the R-3 zoning classification have been rendered infeasible, both in terms of the economic realities associated with such developments and the Applicant's ability to put the Property to a productive use under the R-3 zoning classification, and the site development requirements imposed under the Code.

Accordingly, the R-3 zoning classification does not substantially advance a legitimate government purpose, and the character of the Property and its location in a major commercial corridor supports a change to the C-3 zoning classification. The Property's location in a commercial corridor renders any of the uses permitted under the current zoning classification economically infeasible. It is not simply that Property is more valuable with a C-3 zoning classification, or less valuable without it. Rather, the Property is unsuitable to any of the permitted or conditionally permitted uses as currently zoned.

Moreover, the properties along the west side of South Court Street all maintain a C-3 zoning classification. The properties to the north of the Property, while all maintaining an R-3 classification, are all commercially developed. The property immediately to the south of the Property (located in Montville Township), which previously contained single-family residences until it was determined that such uses were economically infeasible, is slated to be developed as an assisted living facility. There is an existing legally, non-conforming commercial use located on the Property.

In short, this is an ideal location for uses associated with the C-3 zoning classification. This is supported by Code Section 1137.01, which states:

The C-3 General Commercial District is established to provide for uses in addition to those specified for the local and commercial Retail Office District, and thereby provide service and sales in support of the primary business activities in the community. *** Their location is advantageous at specified points on major thoroughfares at outlying locations in the community.

There are a substantial amount of similar properties in the immediate area that are either zoned C-3 or currently used for purposes consistent with the C-3 zoning classification. Based on the location of the Property within an existing commercial corridor, the requested zoning amendment is insubstantial and in conformance with the general character of the neighborhood. The proposed use will "provide service and sales in support of the primary business activities in the community" and is located on a major thoroughfare in an outlying location. In other words, the requested rezoning will conform the Property to the surrounding commercial uses, consistent with the general intent of the Code with respect to the ongoing development in this particular corridor.

The requested rezoning is further supported by Code Section 1125.01, which states the purpose of the R-3 zoning classification is "to encourage relatively high density residential development in areas generally adjacent to built up sections of the community or in areas of existing development of such density The development is to consist of single-family and two-family dwellings in areas served with centralized sewer and water facilities." None of the properties which maintain the R-3 zoning classification along this portion of South Court Street

have developed in this fashion, nor in conformance with the R-4 zoning classification, which is the most closely related land use to that identified in the Plan.

With respect to the Pinewood condominium development, it is located to the northeast of the Property and will not experience any nuisance conditions resulting from the proposed development. This is due to the existence of substantial vegetation and buffering, as well as the design of the site lighting, which will minimize any light or noise pollution into the Pinewood development.

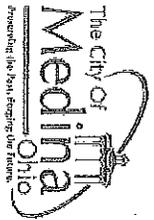
Regarding potential traffic concerns that have been raised by Pinewood residents, during site plan approval the Applicant committed to removing the existing driveway located on the north side of the Property, consolidating all traffic into the south drive as approved. Further, while local governments may legitimately weigh traffic generation from proposed land uses in deciding whether or not to authorize them, controlling traffic is not a primary purpose of zoning (at least as it applies to commercial areas). Where, as here, a proposed use is lawful given the context of the surrounding area, the question of additional (or existing) traffic becomes a secondary consideration. *State ex rel. Killeen Realty Co. v. City of East Cleveland*, 169 Ohio St. 375, 386, 8 Ohio Op. 2d 409, 160 N.E.2d 1, 8 (1959). While "taking into account the rights of others and the needs of the community," zoning regulations must operate "to insure the greatest enjoyment and maximum use of one's land." *Ederer v. Board of Zoning Appeals*, 18 Ohio Misc. 143, 149, 47 Ohio Op. 2d 340, 248 N.E.2d 234 (C.P. 1969).

Here, the proposed use is designed to capture existing traffic and will generate very little traffic in the area. The anticipated amount of traffic to and from the Property (approximately 60-80 trips per day) does not add significant traffic safety concerns relative to the existing traffic in the corridor. In fact, this development will mix appropriately with the existing commercial uses, and replace the loss of services due to the closure of the Huntington Bank branch. This marginal increase in traffic is not sufficient to justify the Applicant's request, given the secondary status of such considerations under Ohio case law.

Conclusion

The current R-3 zoning classification applicable to the Property is unsuitable based on the various commercial uses surrounding the Property. Development of the Property under the R-3 zoning classification is economically infeasible, and the requested rezoning will bring the Property into conformance with the general character of this commercial corridor. In sum, there is no rational basis to continue to apply the restrictive R-3 zoning classification on the Property. Accordingly, the Applicant respectfully requests that the Property be rezoned under the C-3 zoning classification.

Future Land Use map
from the City of
Medina 2007
Comprehensive Plan
Update and a detail of
the subject property's
immediate vicinity on
the map



Zoning

District Map

Effective February 21, 2018 (Ord. 15-18)

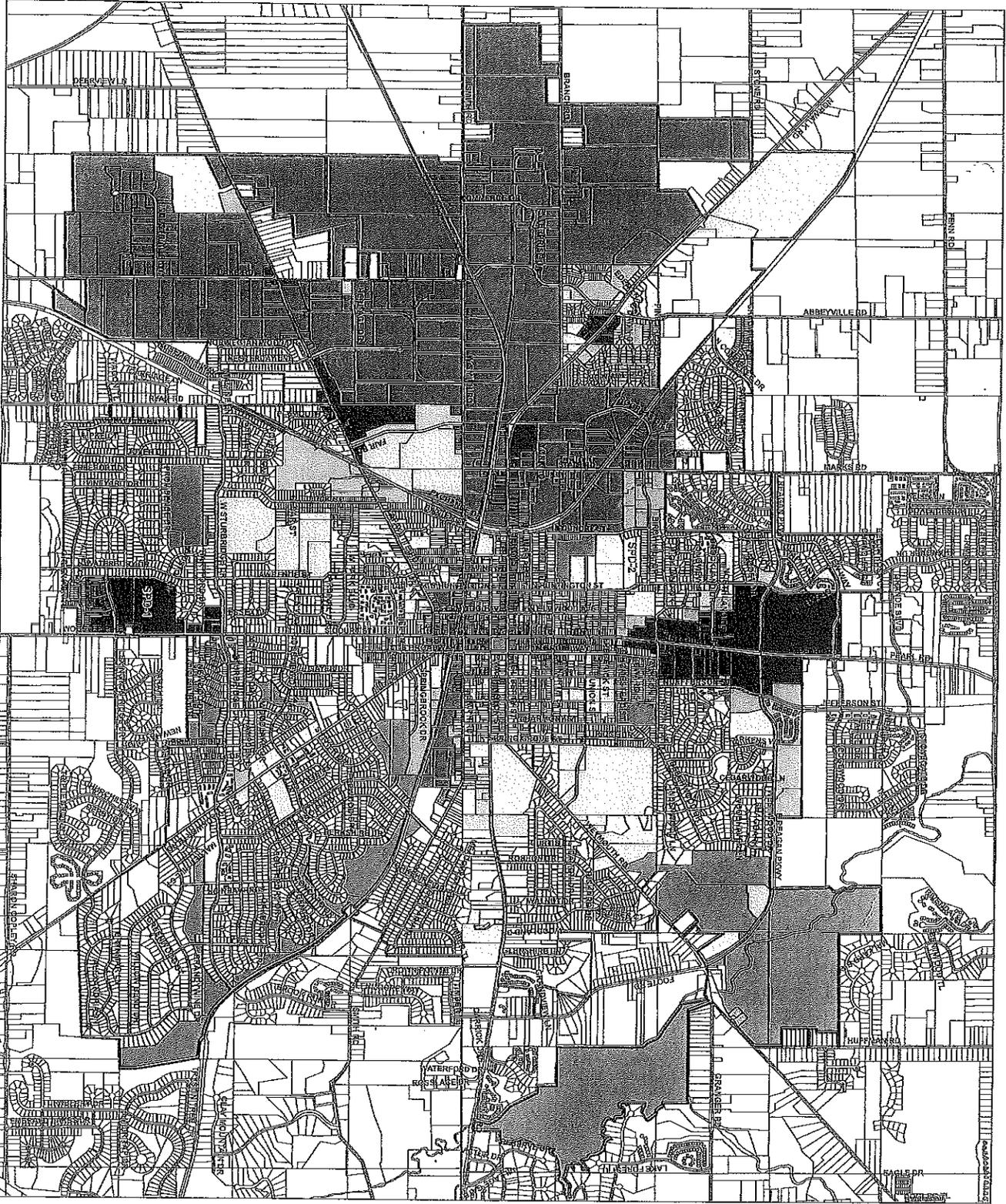
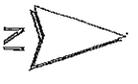
Legend

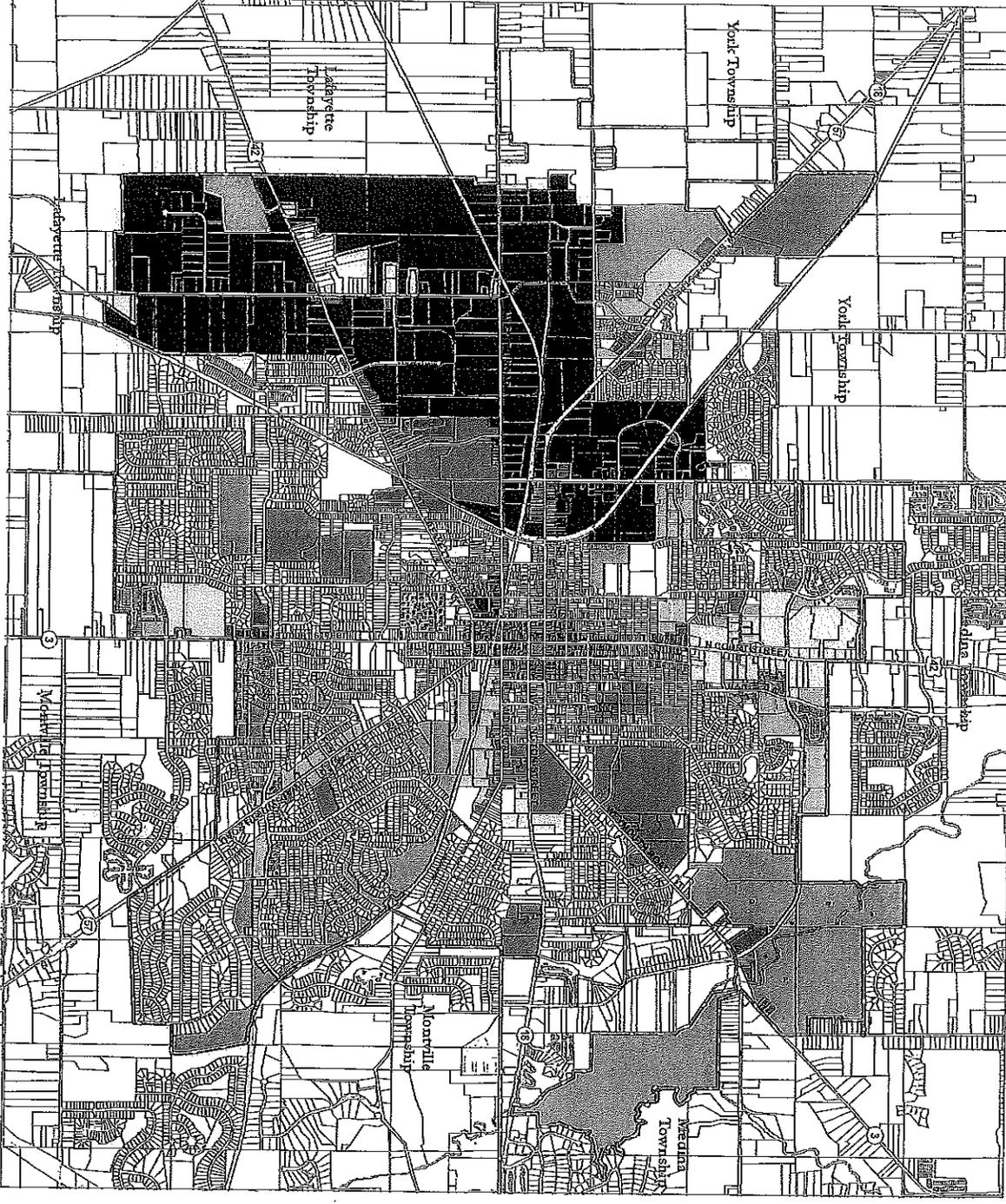
- City Boundary
- O-C Open Space Conservation
- R-1 Low Density Urban Residential
- R-2 Medium Density Urban Residential
- R-3 High Density Urban Residential
- R-4 Multi-Family Residential
- MU Multi-Use
- P-F Public Facilities
- C-S Commercial Service
- C-1 Local Commercial
- C-2 Central Business
- C-3 General Commercial
- I-1 Industrial

Note:
 This map is updated frequently and may not represent the most current information. To ensure accurate information contact the City of Medina at 330-764-4652.

The lot lines of this map are representative of the actual lot lines and are not intended to be substituted for an official survey or used to resolve boundary or area issues. Secure a survey, consult County records or the City Clerk of Council records for dimensions and areas of lots and boundaries.

Prepared by City of Medina
 Community Development Department
 February 22, 2018





Map 8 Future Land Use

11/13/2006

City of Medina, Ohio

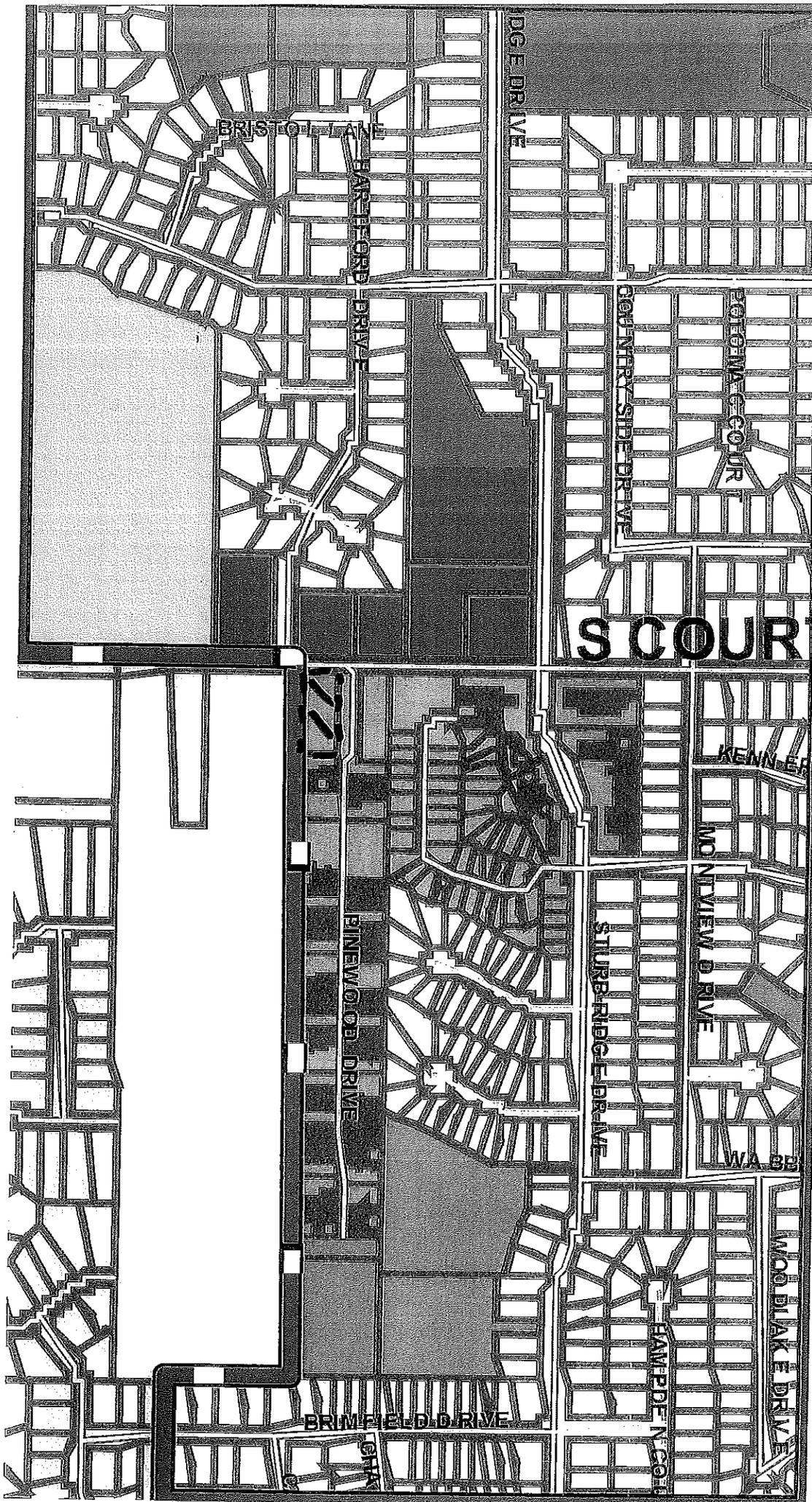
Future Land Use

- Residential Low Density
- Residential Medium Density
- Residential High Density
- Mixed Use
- Central Business District
- Thoroughfare Commercial
- Planned Commercial
- Restricted Office
- Office/Technology
- Light Industrial
- General Industrial
- Public Facilities
- Conservation/Recreation
- Municipal Boundary
- Township Boundary
- Surrounding Area



See Map Source: Medina, Ohio GIS, 2005
Data Source: Medina, Ohio GIS, 2005

McKenzie
CONSULTANTS



BRISTOL LANE

DGE DRIVE

BARNFORD DRIVE

GOVERNMENT SIDE DRIVE

POTOMAC COURT

S COUR

KENNEDY

MONVIEW DRIVE

STURBRIDGE DRIVE

WABE

BREWSTER DRIVE

HAMPTON COURT

WOODLAKE DRIVE

BRIMFIELD DRIVE

ORISKANY

C-3, General
Commercial
Principally Permitted
and Conditionally
Permitted use tables

1137.02 PRINCIPALLY PERMITTED USES.

The following uses shall be permitted in the C-3 General Commercial District:

Residential	Public/Semi-Public	Commercial
• None	• Club, Lodge or Fraternal Organization	• Bar or Tavern
	• Passenger Transportation Agency and Terminal	• Commercial Entertainment
		• Commercial Recreation
		• Convenience Retail
		• Drive-In Establishments including Restaurants and Theaters
		• Heavy Duty Repair Services for Machinery and Equipment Including Repair Garages and Specialty Establishments including Motor, Body, Fender, Radiator Work.
		• Hotel or Motel
		• Mixed Use Building - Residential Excluded from Ground Level Floor
		• Motor Vehicle Truck, Trailer and Farm Implement Sales, Rental or Leasing - New or Used
		• Motor Vehicle, Truck, Trailer and Farm Implements Repair, Service and Storage (Excluding Body Work, Painting and Engine Work)
		• Off-Street Parking Lot, Garage or Deck
		• Office - Professional, Medical and Administrative
		• Other Similar Uses as Determined by the Planning Commission
		• Personal and Professional Services
		• Plant Greenhouse
		• Restaurant
		• Retail less than 80,000 square feet in size
		• Veterinary Office or Hospital in Enclosed Building
		• Wholesale Establishments

(Ord. 109-14. Passed 6-23-14.)

1137.04 CONDITIONALLY PERMITTED USES.

The following uses shall be permitted as conditionally permitted uses in the C-3 General Commercial District subject to the requirements of Chapter 1153, Conditional Uses. Numerical identification after each item corresponds to specific standards in Section 1153.04, Conditionally Permitted Use Regulations.

Residential	Public/Semi-Public	Commercial
•Multi-Family Dwelling	• Conservation Use	• Car Wash
•Transitional Housing ^{7,24}	• Educational Institution for Higher Education	• Child Day Care Center and Nursery 2,5,9,11,14
	• Publicly Owned or Operated Governmental Facility 3,7,8,11	• Conference Center, Banquet Facility or Meeting Hall 1,3,7,11,12,14
	• Public Utility 1,10,11	• Cremation Facility
	• Religious Place of Worship 1,3,7,11,12,14	• Hospital 1,2,3,5,7,9,11,14
	• Wireless Telecommunications Facility	
		• Motor Vehicle Filling Station with or without Convenience Retail 5,7,17,29,31
		• Open Air Building materials Sales and Lumber Yard
		• Outdoor Dining
		• Personal and Professional Services with Drive-Thru
		• Research and Development Laboratory and Processing with No External Hazardous, Noxious or Offensive Conditions
		• Restaurant with Drive-Thru or Drive In
		• Retail larger than 80,000 square feet in size
		• Sexually Oriented Business 36

(Ord. 009-17. Passed 1-23-17.)

Aerial photograph
with City of Medina
Zoning Districts
overlay.

P19-13
1088 S. Court St.
Rezone
R-3 to C-3
May 9, 2019

SPD-1

C-3

C-3

Subject Site

R-3

PINEWOOD DR

R-1

R-1

NORTHFORD CT

SALEM CT

W STURBRIDGE DR

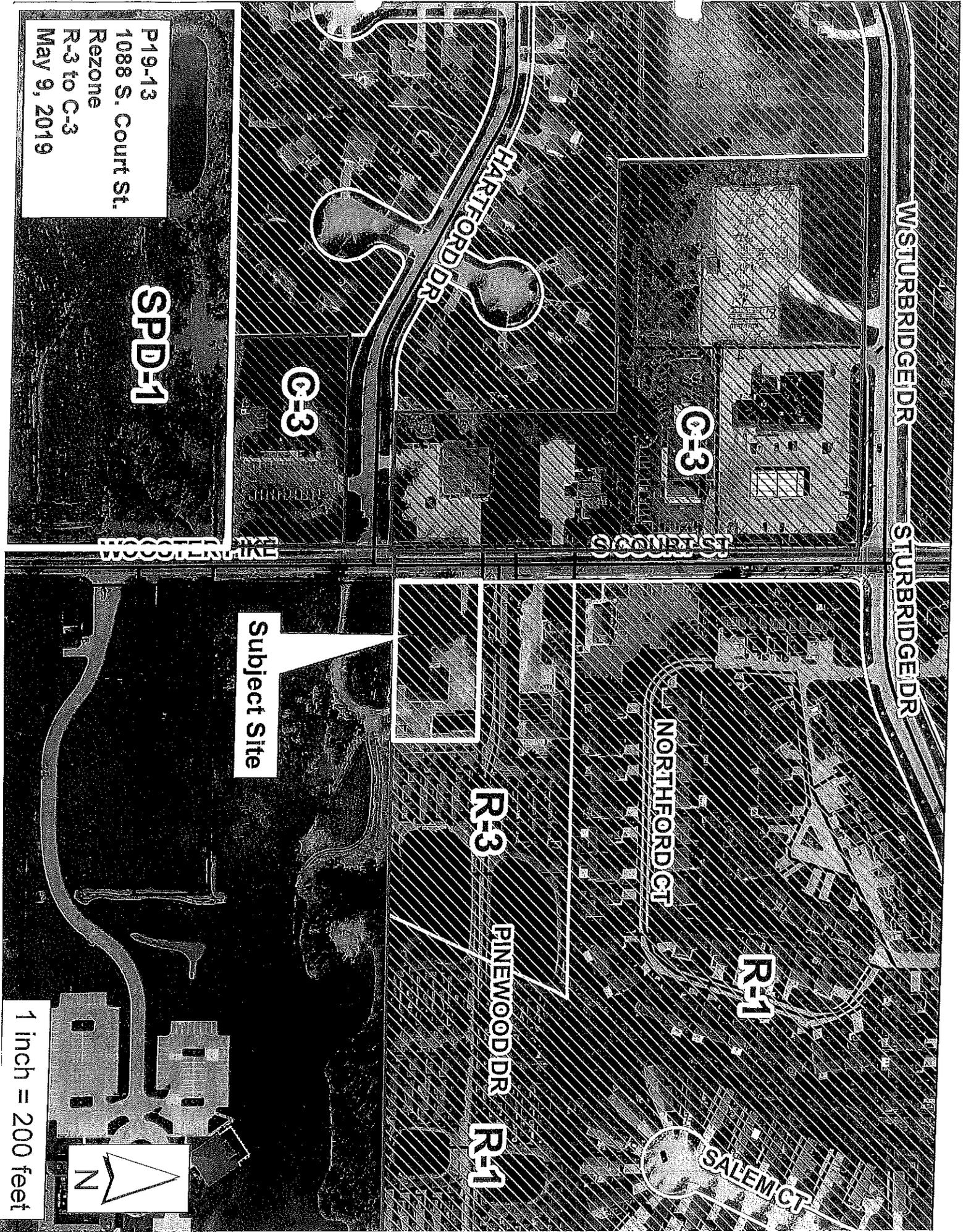
STURBRIDGE DR

HARTFORD DR

S COURT ST

W COOTER LN

1 inch = 200 feet



May 16, 2019 Planning
Commission
recommendation
resolution

**RESOLUTION
PLANNING COMMISSION**

May 16, 2019

Justin Eddy
Tucker Ellis LLP
950 Main Ave., Ste 1100
Cleveland, Ohio 44113

PROPERTY: 1088 S Court

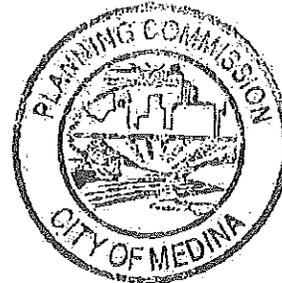
CASE NO: P19-13

WHEREAS, YOUR APPLICATION WAS DULY PROCESSED AND AFTER APPROPRIATE REVIEW AND STUDY THE COMMISSION HAS PASSED THE FOLLOWING RESOLUTION:

At the May 9, 2019 meeting the Planning Commission approved a recommendation to City Council to rezone 1088 S. Court Street from R-3 to C-3.

Sincerely,


Jonathan Mendel
Community Development Director



May 9, 2019 Planning
Commission – #P19-13
draft meeting minutes



CITY of MEDINA Planning Commission

Planning Commission Meeting

Draft

Meeting Date: May 9, 2019

Meeting Time: 7:00 pm

Present: Brian Hilberg (alternate), Bruce Gold, Rick Grice, Andrew Dutton, Bob Thompson(alternate), Jonathan Mendel (Community Development Director), Sandy Davis (Administrative Assistant)

Absent: Paul Rose, Monica Russell

The Court Reporter swore in all attendees.

Mr. Gold made a motion to approve the minutes from the April 11, 2019 meeting and the April 25, 2019 meeting as submitted.

The motion was seconded by Mr. Dutton.

Vote:

Grice	<u>Y</u>
Hilberg	<u>Y</u>
Gold	<u>Y</u>
Dutton	<u>Y</u>
Thompson	<u>Y</u>
Approved	5-0

Announcements: Mr. Mendel stated the bid request process was restarted for the parking garage. Mr. Mendel stated when the project is awarded, the project will be coming before the Planning Commission for site plan review.

Old Business:

There were no cases under Old Business.

New Business:

1. P19-12 5986 Branch Road Architectural Design Studio CTC/SPA

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is for Conditional Zoning Certificate and Site Plan for a Heavy Manufacturing (Soil Screening). Mr. Mendel stated the applicant is Architectural Design Studio representing ASI Topsoil who would be the operator of the screening operation and Discount Drug Mart, the owner of the property.

Mr. Mendel stated the site is located on the south side of the 5900 block of Branch Rd near the City of Medina corporation limits. Mr. Mendel stated the site is currently vacant with some remaining improvements from the site's previous farmstead use. Mr. Mendel stated the properties to north are I-1 zoned, but residentially developed and occupied. The property to the west is undeveloped I-1 zoned and the property to the east and south are I-1 zoned and industrially developed.

Mr. Mendel stated the applicant wishes to locate an outdoor portable soil screening operation on the subject site to screen and remove a sizeable soil stockpile on the west end of property immediately to the south where the Discount Drug Mart warehouses and offices are located. Mr. Mendel stated the subject site is also owned by Discount Drug Mart and the soil screening operation is contracted to make way for the next phase of warehouse expansion at the northwest corner of the existing Discount Drug Mart campus.

Mr. Mendel stated the operation will consist of digging into the stockpile from the last expansion, screening the soil with a portable screener machinery and stockpiling the processed soil to be trucked from the site.

Mr. Mendel stated given the above project description, the applicant requests a Conditional Zoning Certificate to permit a soil screening operation as this it is considered Manufacturing, Heavy under Section 1105.097 of the Planning and Zoning Code. Mr. Mendel stated it a conditionally permitted use in the I-1 zoning district. Mr. Mendel stated Site Plan approval must be sought for the general site development plan.

Mr. Mendel stated the Zoning Code requires the Planning Commission conduct a Public Hearing for the proposed Conditional Use. Mr. Mendel stated the legal notices have been issued to permit the Public Hearing at the May 9, 2019 meeting. Mr. Mendel stated based on the review of the case and the public hearing the Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for the insuring that the intent and objectives of this Zoning Ordinance will be observed.

Mr. Mendel stated the Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards:
(1) Will be harmonious with and in accordance with the general objectives or with any specific objectives of the Land Use and Thoroughfare Plan of current adoption;

2. P19-13 1088 S. Court Trillium Creek COM

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated the applicant is Tucker Ellis LLP representing Trillium Creek LLC, the owners. Mr. Mendel stated their request is to rezone the subject property, 1088 S. Court Street, from R-3 (high density urban residential) to C-3 (general commercial).

Mr. Mendel stated the subject property is 0.92 acres on the east side of S. Court Street at the City of Medina corporation boundary. Mr. Mendel stated the site is occupied by a 2,369 sqft one-story principal building, a 2,029 sqft accessory building and accessory vehicle circulation areas.

Mr. Mendel stated the applicant requests rezoning the property from R-3, High Density Urban Residential to C-3, General Commercial. Mr. Mendel stated at the moment, the applicant wishes to develop the property with a bank ATM drive-thru, but this is not a permitted use within the R-3 district and is a conditionally permitted use within the C-3 district.

Mr. Mendel stated the applicant went before the Board of Zoning Appeals on April 11, 2019 requesting a Land Use Variance to develop the subject site with the bank ATM drive-thru and was denied the Land Use Variance. Mr. Mendel stated the applicant also went before the Planning Commission for Site Plan Approval, which was approved with the condition that the subject property be rezoned to C-3. Mr. Mendel stated if the property is rezoned to C-3 by City Council through their legislative process, they have site plan approval and could theoretically have the zoning in place but they will still need to come back before the Planning Commission for a Conditional Zoning Approval by the Planning Commission.

Mr. Mendel stated the subject property is presently zoned R-3, High Density Urban Residential. Mr. Mendel stated the permitted uses include single-family detached dwellings. Mr. Mendel stated the conditionally permitted uses include two-family dwellings, group homes, schools, churches, etc. Commercial uses are not permitted in the R-3 zoning district.

Mr. Mendel stated the applicant proposes rezoning the subject properties to C-3 General Commercial which is the city's highest intensity commercial district. Mr. Mendel stated this zoning district permits a wide range of commercial uses such as office, retail, commercial entertainment and auto sales. Mr. Mendel stated the conditionally permitted uses are a range of uses such as multi-family dwellings, churches, gas stations and restaurants with drive through.

Mr. Mendel stated the applicant provides discussion points to support the request to rezone from R-3 to C-3, which are attached in the packet.

Mr. Mendel stated the Future Land Use map in the Comprehensive Plan Update is a visual guide to future municipal planning and land use within the city. Mr. Mendel stated

the map currently designates the subject property 'Residential High Density' as part of a specific area of the same designation to the north encompassing properties on the eastside of the S. Court and Sturbridge Dr.

Mr. Mendel stated in evaluating the proposed rezoning, the following items must be considered:

- Consistency with the 2007 City of Medina Comprehensive Plan Update – Future Land Use Map
- Consider all possible permitted and conditionally permitted uses in the proposed zoning district.
- Intrusion of commercial development and change of neighborhood land use character

Mr. Mendel stated the City's 2007 Comprehensive Plan Update designates the subject property as 'Residential High Density', which is consistent with the multi-family development patterns on neighboring properties to the north along the eastside of S. Court St. Mr. Mendel stated the future land use map designation represents the community's wishes that the subject property's future development be consistent with the designation and predominant land use and development pattern on the greater southeast corner of S. Court St. and Sturbridge Dr.

Mr. Mendel stated to be consistent with the Future Land Use Map designation, the more appropriate zoning district for the subject property would be the R-4, Multi-Family Residential.

Mr. Mendel stated the applicant does outline the potential limited impact of the proposed development for the subject property (drive-thru bank ATM), but best practice when considering a rezoning is to also consider the appropriateness of all the permitted and conditionally permitted uses (attached). Mr. Mendel stated the principally permitted uses in the C-3 includes a wide range of land uses such as restaurant, retail store, professional office, hotel/motel, car sales, motor vehicle repair, etc. Mr. Mendel stated the conditionally permitted use range from multi-family, place of worship, gas station, child day care center, etc.

Mr. Mendel stated the permitted and conditionally permitted uses similar to those in the C-3 district may have been considered too intensive for the east side of the 1000 block of S. Court St. during the 2007 Comprehensive Plan creation process. Mr. Mendel stated during the creation process, it may have been determined the multi-family/high density residential development pattern that had occurred on the adjacent properties to the immediate north and east should continue to be a future development pattern for the immediate vicinity including the subject property.

Mr. Mendel stated Staff **does not recommend rezoning** the subject property from R-3, High Density Urban Residential to C-3, General Commercial because of the following reasons:

1. The C-3 district is not consistent with the 2007 City of Medina Comprehensive Update - Future Land Use Map designation of 'Residential High Density'.
2. The C-3 district full range of permitted and conditionally permitted uses have greater potential for negative impacts on the surrounding residential land uses.

Present for the case was Justin Eddy, Tucker Ellis LLP representing Trillium Creek LLC. Also present was Erin Funk, Trillium Creek LLC, CFO.

Mr. Eddy stated after last month's meeting for Site Plan approval, he went back to KeyBank and discussed the condition with respect to the driveway and relocating the north drive to have all the traffic flow through the southern drive. Mr. Eddy stated KeyBank is prepared to move forward in that fashion. Mr. Eddy passed out a revised site plan showing the northern asphalt driveway to be removed with a sidewalk installed and then have some curbing at the back of the round-about at the ATM Kiosk to allow access to the buildings in the rear.

Mr. Mendel stated the new gravel driveway would not be permitted and would need to be a paved driveway. Mr. Mendel suggested having it connect to the existing drive with the existing conditions as opposed to creating the new drive. Mr. Mendel stated the applicant can repave it if they would like. Mr. Eddy stated he thinks that would be accessible in terms of fixing that discrepancy. Mr. Eddy stated as Mr. Mendel mentioned, our application relates to the rezoning of this property from the R-3 High Density Urban Residential zoning classification as stated under Chapter 1125 of the Medina Codified Ordinances to the General Commercial District zoning classification contained within the provisions of Chapter 1137. Mr. Eddy stated on the outset, part of what Mr. Mendel's report related to is the multitude of uses that are available within that C-3 District. Mr. Eddy asked if there is a less intensive Commercial Zoning District that would permit this similar to the C-3 District as a Conditional Use. Mr. Mendel stated there are two other commercial zoning district. Mr. Mendel stated the C-2 and C-1. Mr. Mendel stated C-2 is the Central Business District and is really designed to be more for the downtown area, the immediate downtown Medina area. Mr. Mendel stated it is designed to have different standards for construction and detailing and is a conditionally permitted use. Mr. Mendel stated the C-1 is the lowest intensity commercial zoning district and personal and professional services and drive-thru, which is what this proposal falls under, is a conditionally permitted use in the C-1 and there are no policies of specific limitations of where C-1 can be located in the community. Mr. Mendel stated from a perspective of the existing zoning map, there is C-3 on the west side of this part of South Court Street. Mr. Mendel stated if this property were rezoned to C-1, it would be a small island of C-1 and would need to be reviewed for spot zoning which would be a stretch because it is a lower intensity commercial zoning so you could say this is a transitional area going from the higher intensity on the west side to a lower intensity land use. Mr. Mendel stated C-1 is a possibility for this area and it still would not be inconsistent with the designation in the future land use map. The question was asked if a Vet's office and an Ice Cream store belong in the C-1 as well. Mr. Mendel stated the permitted uses in the C-1 district are office, so the vet would be permitted, professional, medical, and administrative. Mr. Mendel stated a Veterinary office would fall under that for those purposes.

Mr. Mendel stated the restaurant is a conditionally permitted use and the Ice Cream store is considered a restaurant and is a conditionally permitted use in the C-1 zoning district.

Mr. Dutton stated it seems like there are a number of nonconforming uses there on the east side of the road. Mr. Mendel stated the subject property had a house on it at one time and a few accessory buildings. Mr. Mendel stated it was a commercial use for a contractor's office. Mr. Mendel stated he does not know if it was there when the property was annexed to the city. Mr. Mendel stated the Veterinary office was annexed with the use as part of the annexation when the corridor annexed between the late 1980's and mid 1990's. Mr. Mendel stated what is now Handel's Ice Cream was a vacant lot until 7 or 8 years ago. Mr. Mendel stated it was a commercially designated portion of the PUD for the Townhouse development on the south side of Sturbridge and on the north side of Sturbridge. Mr. Mendel stated it was under the previous regulatory framework and went through City Council approval as part of the PUD process at the time. Mr. Mendel stated that process is no longer in the zoning code.

Mr. Mendel stated that is the history of the corridor on the east side developed. Mr. Mendel stated on the west side, those annexed over several decades.

Mr. Eddy stated he thinks it would be prudent for the applicant at this point to change their rezoning request. Mr. Mendel reviewed the conditionally permitted uses with the C-1. Mr. Eddy stated, aside from the commercial uses, there is definitely some overlap with the current zoning, more along the lines of Public Buildings, Nursing Home, etc. Mr. Eddy stated their intent is to narrowly tailor this as much as possible. Mr. Eddy stated for that reason, they would like, if the Commission thinks it appropriate, is amend their application to request a rezoning to the C-1 designation. Mr. Eddy stated he thinks the same logic with their application still applies.

Mr. Mendel stated it is not an unreasonable request but given the packet that has been sent out by Staff, the Staff report is developed and predicated under the C-3 rezoning request. Mr. Mendel stated C-1, although he could probably rattle it off in 20 minutes, he does not know if the Commission would like it to be at this meeting and whether the members of the community who are present are prepared to discuss that change. Mr. Mendel stated ideally it would be best if there was a request to amend the application but with a continuance at least to the next meeting to permit Staff time to adjust the staff report accordingly. Mr. Mendel stated the applicant could re-evaluate their narrative argument because it talks about C-3 and there is a substantial difference between the permitted and conditionally permitted use tables of the C-1 and the C-3 Zoning District. Mr. Mendel stated it would provide time to receive this from the applicant and amend the Planning Commission packet and redistribute it for the public process. Mr. Mendel stated the time to come back can be open-ended with a time to be determined in the future. Mr. Mendel stated that is what he would suggest to the applicant and the Commission if they wish to amend their request accordingly.

Mr. Eddy asked, assuming they proceeded this evening under the current application, would they be permitted to file under the C-1 classification for the next meeting if the C-3 request is denied.

Mr. Mendel read from the Planning & Zoning Code Section 1107.06, administration section, states in 1107.06(e) "no application for zoning amendment (map or text) which has been denied wholly or in part by Council, shall be resubmitted within 1 year after the date of such denial except on grounds of newly discovered evidence or proof of changed conditions which could be sufficient to justify reconsideration as determined by the Planning Commission. At the expiration of one year, each reapplication shall be accompanied by the required data and fees."

Mr. Mendel stated he interprets that as the actual application that was made, so if it was denied by City Council for C-3, they would be able to come back for rezoning of C-1. Mr. Mendel states the Planning Commission is a recommending body for rezoning. Mr. Mendel stated the Council legislative process for rezoning does not take a month but takes at least another 3 months and given the time of year, it would be longer due to the council summer recess. Mr. Mendel stated a recommendation to not rezone by the Planning Commission would not be the one they can come back with C-1. Mr. Mendel stated they would need to be denied by City Council at which point the applicant could submit an application for rezoning to C-1.

Mr. Eddy stated they will proceed with their request for C-3 this evening. Mr. Eddy stated it is the applicant's position this request should be granted because the commercial zoning classification is essentially consistent with the surrounding character of this neighborhood. Mr. Eddy stated it has been permitted to be developed by the zoning code relative to the C-3 zoning designation on the west side of Court Street and as it is developed otherwise, on the east side of S. Court Street as Mr. Mendel explained. Mr. Eddy stated this body is a recommending body and it is ultimately going to be up to council to make a legislative determination as to whether our request is appropriate. Mr. Eddy stated the function of the Commission is to balance the interplay between a land owner's fundamental property rights because it is essentially what is at stake here, in terms of what they are able to do with their property, as well as the City's obligation to advance legitimate government interests with respect to a zoning classification.

Mr. Eddy stated a very famous case to Land Use Lawyers is Chemo vs the City of Mayfield Heights out of the Ohio Supreme Court in 2000 which states that one of the primary factors that courts look to in determining whether a zoning classification passed constitutional muster is whether it imposes regulations inconsistent with the character of the surrounding area and substantially similar properties.

Mr. Eddy stated their position is the R-3 zoning designation does not advance legitimate government purposes because of the change of the character in this area as it has developed over the years. Mr. Eddy stated even if you look at the Comprehensive Land Use Plan, which designates this as similar to the R-4 zoning designation, we can all agree that even the plan suggests the zoning should change on this parcel. Mr. Eddy stated the

question becomes, what is the appropriate zoning classification for this parcel and the surrounding areas on the east side of Court Street.

Mr. Eddy stated as to the types of uses and the map, these considerations are important but Ohio law requires that the over-riding consideration be the owner's fundamental property rights and preventing what, at times amounts to, discriminatory zoning regulations on property where those uses in the surrounding area are not substantially similar to that zoning classification.

Mr. Eddy stated it is their intent to bring this property into conformance and use it in conformance with the general character of this neighborhood. Mr. Eddy stated the Handel's Ice Cream development occurred after the 2007 Comprehensive Plan was enacted, which he believes was in contradiction to what was designated at that time as the desired land use for that parcel.

Mr. Eddy stated it is worth noting to the south there were houses lining the street at one time. Mr. Eddy stated there was a house on the subject property as well as a few parcels. Mr. Eddy stated he believes all of those homes have been removed. Mr. Eddy stated at the very least, it is clear that a residential zoning designation for the properties immediately adjacent to S. Court Street is not appropriate for this area. Mr. Eddy stated the residential uses are disappearing and being replaced with commercial uses consistently through that area.

Mr. Eddy stated those types of uses are not feasible, the economic infeasibility of actually developing a property for a single family residence such that you can get some value out of it and sell it really isn't an economically feasible use given the character of the neighborhood.

Mr. Eddy stated the applicant feels this is consistent with the purposes of the C-3 Zoning designation which provides in Chapter 1137.01 which states the C-3 General Commercial District is established to provide for uses in addition to those specified for the local commercial retail district and thereby provide service and sales in support of the primary business activities in the community. Mr. Eddy stated their location is advantageous at specific points on major thoroughfares at outlying locations in the community.

Mr. Eddy stated they are trying to create a use which is in service to other existing commercial uses located along a commercial corridor and an outlying location in the community.

Mr. Eddy stated they think this is appropriate for this area. Mr. Eddy stated they have engaged in discussions with the Mayor's office and with the Local Council office and it is his sense they are generally supportive of some type of development on this property and they feel it would be a nice addition to this community. Mr. Eddy stated they have had discussions with residents at the Pinewood Development who have voiced their objections, most related to traffic considerations. Mr. Eddy stated they are committed to address the buffering concerns. Mr. Eddy stated traffic is important but per case law is a

separate consideration. Mr. Eddy stated the first consideration is the zoning and the second is the traffic concerns. Mr. Eddy stated this is a passive use designed to capture existing traffic and is not a destination.

Mr. Eddy stated they do not anticipate the traffic being intensive to and from the site and estimate 60 to 80 trips per day onto and off the site counting as 2 trips, so 3 to 40 cars per day.

Mr. Eddy stated the Comprehensive Plan is outdated and needs to be taken a look at updating.

Mr. Eddy respectfully requested the Commission recommend to City Council to rezone to the C-3 classification which is necessary to protect the applicant's fundamental property rights with respect to developing the site in a fashion that is beneficial to the owner and community and will advance legitimate government purposes.

Mr. Eric Funk stated the storage buildings used to be a commercial use for plumbing. Mr. Funk stated Trillium Creek turned it into storage of medical records and such.

Mr. Grice asked for comments from the public.

John Kavouras, 58 Pinewood Drive, President of the Homeowners Association representing the residents of Pinewood. John stated the proposed use is detrimental to the area because in the middle of what is being termed as a "commercial corridor" are 64 dwellings on Pinewood that have multiple cars and drivers coming in and out in an area that is narrow on Court Street without room for a turning lane or passing lane. Mr. Kavouras stated there is traffic coming from the south at speeds of 45mph before it slows down. Mr. Kavouras stated the cars rarely slow down. Mr. Kavouras stated there are 6 driveways and 3 streets between Sturbridge and Hartford Lane. Mr. Kavouras stated they do not want to see another one there that will have 60 to 80 vehicles coming in and out of the area. Mr. Kavouras stated they are all aware of the need for expansion as well as it is convenient and some of the Pinewood residents will probably be using the ATM however, we have to consider the cost in safety and the cost in traffic suggestion. Mr. Kavouras stated their position is that the alternate suggestion of closing the driveway that exists now, which is not really a driveway but a gravel or blacktop road that is just used to go in and out, and he doubts it is used more than a couple times day. Mr. Kavouras stated the Staff has recommended the Commission deny the rezoning request and that is what he on behalf of Pinewood Homeowners encourage the Commission to do.

Mr. Gold stated he is against spot zoning but that doesn't seem to be the case in this instance when there is C-3 across the street and a veterinary office and Ice Cream store which would be consistent in a C-3 zoning, it seems like the odd man out is the R-3 for that entire block. Mr. Gold stated he personally is not opposed to the C-3 zoning because the property is too small to make it anything larger such as a gas station. Mr. Gold stated the use of an ATM would be a convenience to the residents in the area and he does not think the Keybank, without doing their homework, would establish an ATM there

without knowing if they had a customer base there. Mr. Gold stated he does not see it adding to the traffic flow because he sees it as coming to and from the area, going home from work or going to work would end up using it as opposed to somebody coming from the other side of town. Mr. Gold stated they would have to pass up many ATM's before getting to this one. Mr. Gold stated he does not see it as a problem and would recommend the rezoning.

Mr. Dutton stated with the current application, you need to take the ATM out of the consideration because that is not what the Commission is looking at this evening. Mr. Dutton stated that is what this applicant is going to do but ten years from now, someone could put a more intensive use there such as a bar. Mr. Mendel stated a bar is a permitted use in the C-3 and conditionally permitted use in the C-1 district.

Mr. Dutton stated he has no problem with the ATM but the Commission has to look at the long term possibilities.

Mr. Funk stated the property going south as you enter Medina is being sold and is contingent, those 5 acres, on becoming a nursing home. Mr. Funk stated they have already submitted their application to the State for approval for a nursing home so that 5 acres will be a nursing home in Montville Township.

Mr. Mendel stated that side of Montville Township is all commercially zoned on their zoning map. Mr. Mendel stated in the Special Planning District #1 frontage, is designated for restaurant and commercial development fronting S Court Street.

Mr. Gold made a motion to approve a recommendation to City Council to rezone 1088 S. Court Street from R-3 to C-3.

The motion was seconded by Mr. Dutton.

Vote:

Dutton	<u>Y</u>
Grice	<u>Y</u>
Gold	<u>Y</u>
Thompson	<u>Y</u>
Hilberg	<u>N</u>
Approved	4-1

~~Mr. Mendel stated he will inform the applicant of the soonest steps and timeframe for the Council Legislative process.~~

~~Discussion Item: Expansion of downtown Parking District #1.~~

~~Mr. Mendel stated back on March 14th, the Planning Commission discussed the Downtown Parking District and asked for comments from the Planning Commission for the City Council legislative process.~~

OK
D. J. Tanner
5-22-19

REQUEST FOR COUNCIL ACTION

No. RCA 19-106-5/28
Finance

FROM: NINO PICCOLI SERVICE DIRECTOR
Committee _____

DATE: May 22, 2019

SUBJECT: EXPENDITURE APPROVAL

SUMMARY AND BACKGROUND:

Respectfully requesting Council's authorization for the purchase of supplies for the City Water system from Core and Main. The original Purchase Order #2019-0524 was approved by the Board of Control for \$15,000.00 in January 2019. We are requesting authorization to increase this PO to \$60,000.00.

Suggested Funding:

- Sufficient funds in Account No. 513-0533-53313
- Transfer needed from Account No. _____ to Account No. _____
- NEW APPROPRIATION needed in Account No. _____

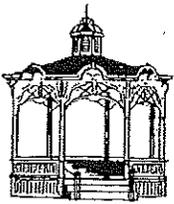
Emergency Clause Requested:
Reason:

COUNCIL USE ONLY:

Committee Action/Recommendation:

Council Action Taken:

Ord./Res.
Date:



City of Medina

132 North Elmwood Ave P.O. Box 703
Medina, OH 44258
PH: 330-725-8861
FAX: 330-722-9058

PURCHASE ORDER

No. 2019000524

Show this Purchase Order Number on all correspondence, invoices, shipping papers and packages.

DELIVER AND SHIP TO THIS DEPT.
WATER TREATMENT PLANT
CITY OF MEDINA
3733 GRANGER ROAD
MEDINA, OHIO 44256

NAME AND ADDRESS OF VENDOR
H00020
CORE & MAIN LP
PO BOX 28330
ST LOUIS MO 63146

PURCHASE ORDER DATE
01/04/19

TERMS:

1. City of Medina is exempt from excise or sales tax.
2. Purchase order number must appear on all invoices, packages, packing slips, shipping papers and all other correspondence.
3. Delivery must be prepaid to destination shown above or billed to same.
4. No change may be made in this order without consent of the Director of Finance.

DO NOT DUPLICATE THIS ORDER

LINE NO.	DESCRIPTION	ACCOUNT NUMBER	QUANTITY ORDERED	UNIT MEAS.	UNIT PRICE	EXTENSION
001	RB-WATER SYSTEM MAINT PARTS REGULAR BLANKET \$13,500.00 INCREASE, BOC APPROVED 1/28/19	513-0533-53313	0		.00	15000.00
					2/15	875.52
					2/28	114.00
					3/29	120.00
					4/15	80.00
					4/30	47.86
					4/30	19.10
					5/31	1981.00
TOTAL AMOUNT NOT TO EXCEED						15000.00

Order is to be entered in accordance with prices, delivery and specifications shown above.

FEDERAL TAX ID:
34-6001856

THEN AND NOW CERTIFICATION

I hereby certify that the amount necessary to meet this obligation was then (at time of the order or contract) and is now lawfully appropriated for such purpose and was then and is now in the Treasury and free from previous encumbrances.

This amount has been lawfully appropriated for such purpose and is in the treasury or in process of collection.

SEND ALL INVOICES TO:
City of Medina
132 North Elmwood Ave
P.O. Box 703
Medina, OH 44258

Reed W. Dinkow
DIRECTOR OF FINANCE

AUTHORIZED SIGNATURE

CNGP530

VEHICLE ORDER CONFIRMATION

02/08/19 15:08:25

==>

Dealer: F44209

2019 F-SERIES SD

Page: 1

Order No: 1111 Priority: D3 Ord FIN: Order Type: 5B Price Level: 950

Ord Code: 660A Cust/Flt Name: MEDINA CITY PO Number:

		RETAIL	DLR INV			RETAIL	DLR INV
F5H	F550 4X4 CHAS/C	\$42210	\$40099.00		LESS TPMS		
	169" WHEELBASE				19500# GVWR PKG		
E4	VERMILLION RED	660	601.00	425	50 STATE EMISS	NC	NC
A	VNYL 40/20/40			473	SNOW PLOW PKG	185	169.00
S	MEDIUM EARTH GR			52B	BRAKE CONTROLLER	270	246.00
660A	PREF EQUIP PKG			65Z	AFT AXLE TANK	NC	NC
	.XL TRIM				SP DLR ACCT ADJ		(1995.00)
572	.AIR CONDITIONER	NC	NC		SP FLT ACCT CR		(1247.00)
	.AM/FM STER/CLK				FUEL CHARGE		18.24
99Y	6.8L EFI V10 EN	NC	NC	B4A	NET INV FLT OPT	NC	7.00
44P	6-SPD AUTOMATIC	NC	NC		DEST AND DELIV	1595	1595.00
TGM	225 TRACTION	190	173.00	TOTAL	BASE AND OPTIONS	46945	41337.24
X8L	4.88 LTD SLIP	360	328.00	TOTAL		46945	41337.24
68M	PAYLD PLUS UPGR	1155	1051.00	*THIS IS NOT AN INVOICE*			
18B	PLAT RUNNING BD	320	292.00				

City of Medina

C.U.E. Quote

ATTN: Bill Davis

C.U.E. Cost w/Ziebart+
Fallsway Equipment

67,749.44

TitLe+Tag

33.50

67,782.94

J. Powers
Fleet Mgr.
Montrose Ford

2-8-19



1277 DeValera Ave., P.O. Box 4537, Akron, Ohio 44310-0537
330-633-6000 1-800-458-7941
FAX 330-633-0834

2773 Salt Springs Rd., Youngstown Ohio 44509
330-793-3333 1-800-589-7911
FAX 330-793-6556

SALES AGREEMENT AND PURCHASE ORDER

Montrose Ford
3960 Medina Road
Fairlawn, Ohio 44333

February 7, 2019

Attention: Jeff Powers
330-666-0711 x162 Phone
jpowers@montroseautogroup.com
RE: City of Medina

QUOTATION

One (1) Reading Model UR132ADWHH WR LH2 FF QM Classic II Steel Utility Service Body:

132 in. overall length x 92 in. overall width
A-60 coated steel construction with tread plate floor
50 in. wide cargo area
40 ¾ in. compartment height
24 ¾ in. floor to top of compartment height
21 ½ in. deep compartments
Hidden hinges
Ford PQ Red powder coat finish inside and out
One (1) rectangular light hole in each rear panel
LED stop, tail and turn signal lights including LED backup lights
Light harness adapter
One (1) aluminum gas fuel filler cup
One (1) curb side mount angular ladder rack installed
One Whelen Responder R2LLPA amber mini light bar
One Whelen 3rd brake light mounting bracket for Responder light
One Whelen four corner strobe light system
Installed

Purchaser

By: _____

Title: _____

For FALLSWAY EQUIPMENT CO., INC.

The Purchaser orders and agrees to purchase from FallsWay Equipment Co. Inc., the equipment and materials itemized and set forth above, to be paid for by the Purchaser at the prices fixed herein, but subject to the terms and conditions on the reverse side of this agreement.
ALL USED EQUIPMENT IS SOLD "AS IS" WITH NO WARRANTY UNLESS OTHERWISE SPECIFIED.



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330-633-6000 1-800-458-7941
FAX 330-633-0834

2773 Salt Springs Rd., Youngstown Ohio 44509
330-793-3333 1-800-589-7911
FAX 330-793-6556

SALES AGREEMENT AND PURCHASE ORDER

One (1) 2 inch receiver type tube hitch installed

15,000 lbs. capacity
7 way round socket with RV style flat pins

One (1) Tommy Gate Model G2-54-1642 EA38 Liftgate per the Following:

49 in. x 38 in aluminum platform plus 6 in. ramp
Two piece folding ramp
1,600 lbs. capacity
Fixed, recessed timed toggle switch control
LED 2 light kit
Installed

One (1) Western MPV-3 9.5 ft. V-Plow per the Following:

14 gauge powder coat moldboard
Flared V-plow blades
31 in. height at center, 39 in. height at ends
High carbon 3/8 in. x 6 in. steel cutting edges
Double acting power angle cylinders
Trip protection
Ultra-Mount 2 snow plow mounting system
In cab controls
Installed

One (1) Sensata Model 12/1500N Pure Sine Inverter per the Following:

1,500 Watts output power
2880 Peak Watts
120 VAC output voltage

Purchaser

By: _____

Title: _____

For FALLSWAY EQUIPMENT CO., INC.

The Purchaser orders and agrees to purchase from Fallsway Equipment Co. Inc., the equipment and materials itemized and set forth above, to be paid for by the Purchaser at the prices fixed herein, but subject to the terms and conditions on the reverse side of this agreement.
ALL USED EQUIPMENT IS SOLD "AS IS" WITH NO WARRANTY UNLESS OTHERWISE SPECIFIED.



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330-633-6000 1-800-458-7941
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2773 Salt Springs Rd., Youngstown Ohio 44509
330-793-3333 1-800-589-7911
FAX 330-793-6556

SALES AGREEMENT AND PURCHASE ORDER

12 amps output current
Single phase
4 year warranty
One deep cycle battery and box
Installed

INSTALLED PRICE..... \$28,107.00
(Plus any additional taxes)

Terry Dunn
330-606-2582
tdunn@fallsway.com

Purchaser

By: _____

Title: _____

For FALLSWAY EQUIPMENT CO., INC. _____

The Purchaser orders and agrees to purchase from Fallsway Equipment Co. Inc., the equipment and materials itemized and set forth above, to be paid for by the Purchaser at the prices fixed herein, but subject to the terms and conditions on the reverse side of this agreement.
ALL USED EQUIPMENT IS SOLD "AS IS" WITH NO WARRANTY UNLESS OTHERWISE SPECIFIED.