



CITY of MEDINA

Planning Commission

Planning Commission Meeting

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 CZC/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 A-1 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) *Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;*
- (3) *Will not be hazardous or disturbing to existing or future neighboring uses;*
- (4) *Will not be detrimental to property in the immediate vicinity or to the community as a whole;*
- (5) *Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection drainage structures, refuse disposal and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide such service adequately;*
- (6) *Will be in compliance with State, County and City regulations;*
- (7) *Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic or surrounding public streets or roads.*

Mr. Mendel stated Heavy Manufacturing has the following specific conditional use regulations:

- (37) *Such uses shall be conducted not closer than 100 feet from any R District. Where the I District abuts upon but is separated from R District by a street, the width of the street may be considered as part of the required setback. The construction, operation and maintenance of such uses shall be such that they will not be hazardous, noxious or offensive due to the emission of odor, dust, smoke, cinders, gas fumes, noise, vibration, refuse matter or water carried wastes.*
- (38) *In the interests of the health, safety, general welfare and the protection of property values of the community, the area and adjoining land uses, and the other industries within the I-1 District, the Planning Commission may require any conditions deemed necessary. In regard to an industrial operation whose effects on adjacent premises, the area or the community are not readily known, the Planning Commission may seek expert advice on what conditions should be imposed on the particular industrial operation to reasonably modify any injurious or offensive effects likely to result from such an operation. The cost of securing such expert assistance shall be borne by the applicant.*

Mr. Mendel stated in reviewing the proposed soil screening operation at the subject site and the surrounding mix of zoning districts, land uses and landscape, several of the above standards require scrutiny as they relate to the proposed Heavy Manufacturing land use. Standards #2, 3 & 4 require further analysis below:

- (2) *Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;*

Mr. Mendel stated soil screening can be an intensive outdoor land use and has features that can affect the appearance and character of its surrounding vicinity. Mr. Mendel stated in the case of the neighborhood surrounding the subject property, the 5900 block of Branch Rd is predominantly a transitional neighborhood zoned I-1 and is a mix of existing residentially occupied homes and light/moderate intensity industrial land uses ranging from professional offices, light manufacturing and warehousing. Mr. Mendel stated immediately to the south is I-1 zoned and industrially developed properties with the subject site's owner (Discount Drug Mart) the most directly adjacent land use to the proposed operation

Mr. Mendel stated the applicant's land use is not completely out of character or expectation for an industrial neighborhood and may not change the character of the

neighborhood. Mr. Mendel stated the applicant's proposed site plan also provides significant distance from neighboring businesses and land uses that are not part of the land use's ownership.

- (3) *Will not be hazardous or disturbing to existing or future neighboring uses;*
- (4) *Will not be detrimental to property in the immediate vicinity or to the community as a whole;*

Mr. Mendel stated the proposed soil screening operation can be considered an intensive land use and has the potential to have actual and perceived impacts on neighboring land uses. Mr. Mendel stated generally, the applicant's land use should produce sound, visual and physical impacts on neighboring land and uses.

Mr. Mendel stated to the north along Branch Road are predominantly existing residentially occupied properties zoned I-1 within the City of Medina. Mr. Mendel stated this is a transitional area with intention for future development of the properties under the City of Medina I-1 zoning district. Mr. Mendel stated the applicant outlines that this land use is ultimately 'temporary' as the intent is to be on site as long as it takes to remove the existing soil stockpile on Discount Drug Mart's property to permit their warehouse expansion. Mr. Mendel stated since this is the sole reason for the proposed land use, it would be reasonable to restrict the soil screening to only soil presently on the Discount Drug Mart property and no outside soil shall be brought to the subject site for screening.

Mr. Mendel stated the proposed land use is located at least 300 feet south of the Branch Road public right-of-way and only operating land use immediately adjacent is the applicant/property owner's office and warehousing operations. Mr. Mendel stated there may likely be impacts the existing land uses along Branch Road from the truck traffic originating to/from the proposed land use.

Mr. Mendel stated the applicant provided a site and operational narrative identifying what the applicant believes is the potential environmental impacts of the proposed land use and the proposed site design/improvements to mitigate potential negative impacts. Mr. Mendel stated this document provides anecdotal information regarding the environmental impacts of the land use from the applicant. Mr. Mendel stated the applicant should consult with the Akron Regional Air Quality Management District (ARAQMD) to determine whether an air permit is required through their office. Mr. Mendel stated he did contact ARAQMD and they do typically require air permits for these types of operations but due to scale or size, it may not need to be permitted. Mr. Mendel stated this will be determined after review from ARAQMD.

Mr. Mendel stated the applicant's narrative may not be necessarily sufficient to determine definitively whether there would be negative impacts to the surrounding environment and land uses and what methods should be required to mitigate such impacts. Mr. Mendel stated in order to better understand potential impacts and mitigation methods, an environmental impact report could be conducted by the applicant by an industrial hygienist professional and provided to the Planning Commission for review.

Mr. Mendel stated the proposed use is Heavy Manufacturing, which is a Conditionally Permitted Use

Mr. Mendel stated the proposed site setbacks comply with the zoning requirements.

Mr. Mendel stated the following are the Site Plan review guidelines from the Planning and Zoning Code:

1. Strengthen, protect, enhance and improve the existing visual and aesthetic character of the City, and to prevent the creation or perpetuation of nuisances or blight in the City.
2. To integrate developments into the surrounding environment, as well as to ensure that each new development and redevelopment will be attractive.
3. To protect and improve property values.
4. To foster and encourage creative application of design principles.
5. To ensure that the particular existing design features, which contribute to the unique character of Medina, are retained and re-created in a manner that retains and enhances the City's sense of community.
6. To ensure that new development and redevelopment are compatible and harmonious with the existing overall character of the city, especially when development is proposed in areas where the existing structures do not have architectural features that warrant replication or enhancement.
7. To bring new buildings into an orderly arrangement with landscape and nature, other buildings, and open space areas.
8. To ensure that these objectives are achieved through an impartial review

Mr. Mendel stated as well as the specific design guidelines for industrial uses:

Development for Industrial Uses within the I-1 Industrial District shall only be required to comply with the following standards:

- A. Architectural details and ornamentation on the street façade shall be meaningful to the overall design and appropriate for the size and scale of proposed structures, and harmonious with other architectural details and ornamentation on adjacent structures
- B. Additions and accessory structures should be designed to be compatible with the main structure.
- C. All exterior finished materials, including windows and doors, shall be of architectural grade with long term maintenance characteristics.

Mr. Mendel stated there is not a principal building proposed at this time and therefore the above building standards (A-C) aren't applicable.

Mr. Mendel stated the proposed Manufacturing use normally requires 1 space per 500 sqft of manufacturing floor area and 1 space per 2,000 sqft of office space. Mr. Mendel stated currently, the site plan does not have a principal building and it is intended to be a temporary land use (ultimately) and therefore no required parking for the project at this time.

Mr. Mendel stated due to the underdeveloped nature of this land use and that there is only one way in/out from the site, a minimum 30 feet of hard surface drive should be constructed on the site to minimize tracking dirt and debris into the Branch Road public right-of-way and a code compliant concrete apron be constructed with the public right-of-way to replace the existing gravel apron.

Mr. Mendel stated after reviewing the project and neighborhood context against the requirements of the Planning and Zoning Code, the only item needed as part of the site plan is a hard surfaced drive on the subject site from the Branch Road.

Mr. Mendel stated in regards to the conditional zoning certificate review, it is not objectively clear whether the proposed heavy manufacturing soil screening use complies with all the Conditional Use General Standards in Section 1153.03(b). Mr. Mendel stated the operational and environmental descriptions provided by the applicant does appear to be clear in its anecdotal description of the potential impacts. Mr. Mendel stated it's not known at this time whether this operation will require air permitting by ARAQMD. ARAQMD has been made aware of the proposed operation and has made contact with the operator (A-1 Topsoil) to discuss the procedures for their regulatory process. Mr. Mendel stated the site planning includes site development setbacks Branch Road and significant setback of activity areas from neighboring unassociated land uses. Mr. Mendel stated documentation of the need for a permit by ARAQMD should be submitted for the record.

Mr. Mendel stated the above could be considered sufficient for the Planning Commission to review and decide on the Conditional Zoning Certificate, but as has been the case with similar outdoor material processing heavy manufacturing land uses recently reviewed by the Planning Commission, an objective professionally conducted and analyzed environmental impact report could be warranted in this case to provide the Planning Commission more definitive understanding of the potential impacts of the proposed land use/operation.

Mr. Mendel stated Staff recommends the applicant request a continuance of the Planning Commission review to permit the applicant time to conduct and submit for review an environmental impact review of the proposed Heavy Manufacturing use (soil screening) at the subject site.

Mr. Mendel stated if the Planning Commission decides to approve the requested Conditional Zoning Certificate and Site Plan for a Heavy Manufacturing (soil screening) the approval should be subject to the following conditions:

1. Subject to review and approval by the City of Medina Engineering Department for the site improvement plans.
 - a. A code compliant hard surfaced 30 foot long (starting at the Branch Rd right-of-way and extending south into the subject property) and apron shall be required.

2. Hours of operation for soil screening operations and removal/transport shall be limited to 8a-5p, Monday through Friday with occasional 8a-5p, Saturday and Sunday times to permit only soil removal/transport from the site.
3. No outside soil or other bulk processed or unprocessed material shall be brought to the subject site for processing or transport. The only soil permitted for screening and distribution is the soil already on the subject site owned by Discount Drug Mart Inc and any subsequent owner.
4. The Conditional Zoning Certificate shall expire once all the existing soil on the subject site has been processed and the operation is discontinued as determined by City of Medina staff.
5. The applicant shall consult with Akron Regional Air Quality Management District (ARAQMD) to determine air permitting requirements for the soil screening operation prior to commencing the operation. The outcome of this consultation and/or permitting shall be provided to City of Medina staff prior to commencing the operation.

Present for the case was Tony Cerny, Architectural Design Studio representing the applicant A-1 Topsoil as well as Mr. England and Eric from A-1 Topsoil.

Mr. Cerny stated this is a temporary operation where the tenants removed topsoil from the site to allow the owner the ability to expand their facility. Mr. Cerny stated the work is no different than a construction site. Mr. Cerny stated all truck traffic being generated would still be generated to remove the soil to a different location. Mr. Cerny all heavy equipment operations would still occur because they would still be excavating the soil. Mr. Cerny stated the operation itself, with the exception of screening the topsoil, is no different than if the owner expanded now and needed to remove the earth from the site at that time.

Mr. Cerny stated he feels the requirement to put in a hard drive is an undo hardship and unnecessary requirement as there is currently an existing improved stone drive. Mr. Cerny stated the drive has been used by the owner, there is an existing concrete pad where the screening operations were proposed. Mr. Cerny stated all operations will be on that pad.

Mr. Cerny stated in the past the owner had to improve that drive from a farm lane into a drive and they were storing vehicles back there. Mr. Cerny stated the applicant is proposing to use cleaning techniques used for construction sites, putting in a heavy stoned area in the driveway itself in order to knock off dirt from the vehicles before entering the road. Mr. Cerny stated he would suggest that there be a requirement that the roads be cleaned up if they begin to get muddy. Mr. Cerny stated putting in a temporary construction drive should be adequate for the site. Mr. Cerny stated if they made the improved drive, they would need to tear it back out later because it will not be utilized for any other purpose so it is an expense that is not benefiting anyone in the long run.

Mr. Cerny stated operation hours are between 8am and 5pm Monday through Friday and possibly Saturday mornings for loading purposes. Mr. Cerny stated A-1 Topsoil has

stated they estimate 3 to 5 trucks per day. Mr. Cerny stated there is no set timeline for the operation to be there, but as long as they can until Drug Mart expands the site. Mr. Cerny stated it is being sifted on site to avoid trucking it elsewhere. Mr. Cerny stated the applicant agrees not to bring any topsoil in for any other purpose and they will do whatever they can to control any erosion with silt fences and things of that nature. Mr. Cerny stated he understands the placement of the machine puts the request into the category of Heavy Manufacturing operation but in reality, it is a construction site that will be running for a couple years and is not an actual industrial operation.

Mr. Grice opened the public hearing at 7:22pm and asked for comments from the public for or against the project. Kathy Conkler, 6059 Branch Road commented. Ms. Conkler stated she understands the need to remove the pile of dirt but the existing pile of dirt obstructs the view of all the lights from Drug Mart & Sandridge into their front windows. Ms. Conkler stated the pile breaks up that light. Ms. Conkler stated there is light shining in her bedroom window all night from the industrial buildings. Ms. Conkler stated they will lose their privacy once the mound is removed. Mr. Cerny stated the dirt will be sifting and sold and transported off the property. Ms. Conkler asked if there will be landscaping or fencing going up to alleviate some of the light that will be coming from that property after the mound is removed. Ms. Conkler stated removing the mound will not help the residents. Ms. Conkler asked the applicant to help the residents by putting a barrier of some type back in place.

Sandy England, 6081 Branch Road commented. Ms. England stated it was stated that their homes are zoned I-1 and they are not. Mr. Mendel stated there is a small square area that is York Township and is not annexed. Mr. Mendel stated when he was referring to I-1 zoning in the city and residentially occupied, he was referring to a small island of properties with 4 homes that is York Township. Mr. Mendel stated gave an orientation on the map of where the pile of dirt is located in relation to the residential properties.

Ms. England stated when the annexation was done, that is when the pile was built in order to please the residents to keep them from having to look into their back yard. Ms. England stated that property is very flat and on the corner of Branch and Commerce there are several mounds there as well. Ms. England stated they were told they were putting those mounds there in order to alleviate their issues and now they are taking them away. Mr. Mendel stated he would need to look at the development history of Discount Drug and the annexation. Mr. Mendel stated he was not in Medina at that time. Mr. Mendel stated much of the land is in York Township and the City.

Mr. Thompson asked Ms. England if she has any paperwork to that affect. Ms. England stated she can look it up and she is sure she does. Ms. England stated the residents attended several meetings at York about this and the reason they chose not to annex in was because they would never give them water. Ms. England stated it was all a part of the JEDD process.

Ms. Conkler asked which mound is being removed. Mr. Cerny stated the area behind the pond, between the pond and the building is the area they will be excavating.

Mr. Grice closed the public hearing at 7:32pm.

Mr. Grice asked for comments from the Commission. Mr. Gold asked Mr. Cerny if he has anything to add regarding the permitting process from Akron Air Quality. Mr. Cerny stated no, this is the first he has heard about it, maybe the owner has heard about it.

Eric, owner of A-1 Topsoil commented that he completed all the permits for Air Quality and is waiting for them to release them to him.

Mr. Dutton asked if there is a reason for this particular timing as the expansion is not eminent for Drug Mart. Mr. Cerny stated it takes time to screen topsoil as opposed to just trucking it off. Mr. Cerny stated Drug Mart needs the soil removed in order to expand in the future and this allows them to do the screening on site. Mr. Cerny stated once it is done they can expand. Eric stated it will also cost them less if he removes the dirt as he is selling the dirt as a product.

Mr. Dutton asked if that area has been used for trailer storage in the past, the concrete pad. Mr. Cerny stated he has seen it on the aerial from years ago.

Mr. Dutton asked if it will be used again for trailers. Mr. Dutton stated he assumes it did not get approved years ago.

There was a discussion about the site through the years.

Mr. Gold asked if the topsoil needs to be removed in order for Drug Mart to expand. Mr. Cerny stated yes. Mr. Gold stated the mound will be eliminated and there will be additional warehouse space built. Mr. Cerny stated the existing drive is gravel and the apron is sufficient for the proposed truck traffic. Mr. Cerny stated there is no curb, it is a chip and seal road.

Mr. Thompson referred to letter "e" in the letter to Mr. Mendel which states "we believe farming operations in the area will be a greater generator of dust than the topsoil operation and the prevailing winds will distribute any dust". Mr. Thompson asked if this is based on any data. Mr. Cerny stated it is not, just a personal perception. Eric stated they do not screen on windy days because they are losing product.

Mr. Gold made a motion to approve a Conditional Zoning Certificate and Site Plan for a Heavy Manufacturing (Soil Screening) operation at 5986 Branch Road with the following conditions:

1. Subject to review and approval by the City of Medina Engineering Department for the site improvement plans.
 - a. The existing gravel surface of the road and right-of-way is acceptable
2. Hours of operation for soil screening operations and removal/transport shall be limited to 8a-5p, Monday through Saturday. No outside soil or other bulk processed or unprocessed material shall be brought to the subject site for

processing or transport. The only soil permitted for screening and distribution is the soil already on the subject site owned by Discount Drug Mart Inc and any subsequent owner.

3. The Conditional Zoning Certificate shall expire once all the existing soil on the subject site has been processed and the operation is discontinued as determined by City of Medina staff.
4. The applicant shall consult with Akron Regional Air Quality Management District (ARAQMD) to determine air permitting requirements for the soil screening operation prior to commencing the operation. The outcome of this consultation and/or permitting shall be provided to City of Medina staff prior to commencing the operation.

Mr. Mendel asked Mr. Gold if he is accepting all the conditions stated in the staff report except striking #1 (a) or replacing 1 (a). Mr. Gold stated striking 1(a) as the existing gravel is acceptable. Mr. Mendel suggested changing it to stated existing gravel driveway as shown on the applicant's proposed site plan to remain. Mr. Gold stated yes.

Mr. Mendel stated the dragging of dirt onto the street is regulated by the city code and does not need to be a condition of approval.

Mr. Gold stated he amends his motion to include the discussion by Mr. Mendel. Mr. Hilberg stated Mr. Gold's motion excluded operations on Sundays. Mr. Mendel stated so it is just 8a to 5p Monday through Friday and occasional 8a to 5p on Saturday. Mr. Gold stated 8a to 5p Monday through Saturday.

Mr. Hilberg seconded the amended motion.

Vote:

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

Mr. Grice suggested making a note that at the time Discount Drug Mart comes back in for another expansion at this site, the site be reviewed for concerns to the adjoining property owners such as light and noise. Mr. Mendel stated he agrees.

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 districts. 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.

Mr. Mendel stated at that time, he gave a map showing a different configuration from 1978 of the parking district. Mr. Mendel stated there was good commentary about expanding the parking district to Southtown in order to exempt the newly expanded area from the parking requirements of the Planning & Zoning Code. Mr. Mendel stated after receiving indication of an amendment to the parking district in 1984, a document was found showing the district was reduced. Mr. Mendel stated this changes what was discussed on March 14th and he would like to make sure the record is as accurate as possible. Mr. Mendel stated it does not materially change the intent to expand the parking district to the area at the south end of the city to help with redevelopment or reuse of existing buildings without over burdening a site with parking. Mr. Mendel stated a parking space takes up 279 sq. ft. of land on average. Mr. Mendel stated there are some sites with more parking than the actual square footage of the building.

Mr. Mendel stated if someone wants to redevelop a building, they may need to buy the building next door and tear down the building in order to meet the parking requirements. Mr. Mendel stated that creates an erosion of space for people and creates more parking for just cars. Mr. Mendel stated real estate developers sometimes have a better handle on what their actual parking needs. Mr. Mendel stated this is not prohibiting the creation of private parking but it allows for the flexibility of the private owner to decide the amount of parking necessary to make their project feasible.

Mr. Mendel stated the packet contains the same information as submitted from March 14th with a revised map and included was a copy of the minutes of the discussion from the March 14th meeting.

Mr. Mendel stated the change of the size of the parking district from 1978 to 1984 was because this was set up to be an assessment area and the area was much larger. Mr. Mendel stated there was probably a lot of push back from residents for having to pay to finance it. Mr. Mendel stated he thinks that is why the district was reduced in size to be just outside of the Historic District. Mr. Mendel stated expanding it to this area, with no assessment process, would allow flexibility of reuse and redevelopment of properties in the southern part of the city. Mr. Mendel stated it still includes the existing parking district because it has benefit to the easy re-occupancy of buildings in the downtown.

Mr. Grice stated the piece between Lafayette and Smith west of Huntington is a completely residential block with the exception of two properties in it. Mr. Mendel stated the auto repair is there and a light industrial building which is commercially occupied. Mr. Mendel stated there is also commercial occupancy on the north side of Smith Road. Mr. Mendel stated the houses on the little triangle between the creek and Smith Road are actually zoned C-2. Mr. Mendel stated he thinks the path of future land use on Smith Road needs to remain C-2. Mr. Mendel stated the city recently had a house demolished because it was a hazard at 322 W. Smith Road. Mr. Mendel stated he included this in the same manner as he included the former James Lumber site. Mr. Mendel stated for potential ease of redevelopment.

Mr. Grice stated everything else makes sense to him it is just that block because those homes or duplexes, with the exception of the ones mentioned on Smith Rd., he does not see them going anywhere for a period of time. Mr. Mendel stated there is one family that owns about 60% of them. Mr. Mendel stated it is zoned residential. Mr. Mendel stated likely the highest intensity in that area would be low scale multi-family redevelopment.

Mr. Gold stated he wishes there was someone here representing the business community or a developer who could speak to their needs.

Charles Marshall stated the Southtown organization is impressive and the activity in this area is impressive. Mr. Marshall stated the city has been allocated from the state 15 additional liquor licenses for future development down the road. Mr. Marshall stated the area is recognized as an area of growth for the city. Mr. Marshall stated Farmer's Exchange probably does not meet the current parking requirements. Mr. Marshall stated there was a dual parking arrangement when he purchased the property and because of the development, that has been rescinded. Mr. Marshall spoke about Southtown.

Mr. Marshall stated this would be very beneficial to developers.

Mr. Dutton stated the city needs to proactively look for public parking locations in that Southtown area. Mr. Dutton stated there is a lack of on-street or off-street public parking which can only additionally spur redevelopment as that parking is already there for the developer. Mr. Mendel stated that is the next step.

Mr. Gold made a motion to approve a recommendation of the new Southtown addition to the Parking District #1.

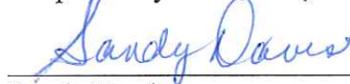
The motion was seconded by Mr. Hilberg.

Vote:

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

Having no further business, the meeting was adjourned.

Respectfully submitted,



Sandy Davis



Rick Grice, Chairman