



# CITY of MEDINA

## Planning Commission

### Organizational Meeting

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### Planning Commission Meeting

Meeting Date: April 14, 2016

Meeting Time: 7:00 pm

Present: Rick Grice, Bruce Gold, Jerry Lash, Paul Becks, Paul Rose, Sandy Davis, Administrative Assistant, Justin Benko (Associate Planner), Jonathan Mendel (Community Development Director)

Absent: None

Minutes: Mr. Gold made a motion to approve the March 10, 2016 minutes as submitted. Mr. Becks seconded the motion.

Vote:

Grice	<u>Y</u>
Gold	<u>Y</u>
Rose	<u>abstain</u>
Lash	<u>abstain</u>
Becks	<u>Y</u>
Approved	3-2

Announcements: Mr. Mendel stated staff is still working on text amendments for the Drug Group Rehabilitation facility and hope to have them to the commission in May.

Mr. Grice announced the Old Business Case P15-37 will be heard last in order to move the other applicants through a little faster.

New Business:

1. P16-07 David Teper/Chris Handy 236 N. State Rd. SPA/CZC  
Justin Benko gave a brief overview of the case. Mr. Benko stated this is a request for Conditional Zoning Certificate and Site Plan Review for a Retail/Convenience Store and Drive Through in the I-1 District.

Mr. Benko stated the applicant was granted approval for the proposed 1,500 sq. ft. retail convenience store with a drive-thru in case P15-08. Mr. Benko stated construction at the site did not begin and the approval expired. Mr. Benko stated the applicant has reapplied

for site plan and conditional zoning certificate approval with the only notable change consisting of the circulation at the site. Mr. Benko stated in P15-08 customers would have to exit the site via the drive thru or by an easement on the neighboring property. Mr. Benko stated the applicant determined the costs associated with the easement were prohibitive; therefore, an additional drive isle is proposed parallel to the drive thru which eliminates the need for the easement.

Mr. Benko stated the site is currently occupied by a small detached single family house. Mr. Benko stated the applicants wish to expand the use on the property with the proposed convenience store while also maintaining the existing single family house to be used for storage for the proposed retail use. Mr. Benko stated along with the proposed building, the applicant proposes a 6 space parking lot to the rear (east) of the existing and proposed buildings with a drive through lane and bypass incorporated.

Mr. Benko stated the only staff comment received was from the City Forrester that if street trees need to be removed for construction it will be at the owner's expense. Mr. Benko stated Forestry can issue a permit.

Mr. Benko stated staff staff recommends approval of the proposed conditional use certificate for the proposed retail convenience store with drive through subject to the following conditions:

1. Subject to building permits from the Medina Building Department.
2. Prior to issuance of a building permit, the applicant must provide a compliant site lighting plan addressing the requirements of Section 1145.09(C) of the Planning and Zoning Code.

Mr. Grice opened the Public Hearing at 7:48pm and asked for comments from the public. Having no comments, Mr. Grice closed the Public Hearing at 7:48pm.

Present for the case was David Teper, owner of 236 N. State Road. Mr. Teper stated he feels this will be a better flow of traffic.

Mr. Lash stated there is no landscaping plan attached. Mr. Teper stated there is a landscaping plan and there will be landscaping. Mr. Teper showed the landscaping plan to be introduced as part of the application. Mr. Teper stated the three trees that the Forestry Department was referring to are the ones in the tree lawn and are Honey Locust trees. Mr. Teper stated they have been chopped up badly by utility work so they are only half a tree and they are not on the approved list by the city for the treelawn. Mr. Teper stated they will be removed no matter who pays for them. Mr. Teper stated they will be installing an approved tree in their place.

Mr. Becks commented on the landscape berm going back a little further. Mr. Teper stated the proposed building with the red roof and the landscape next to it will have the new pavement go through that area and the landscaping will be modified to fit

accordingly. Mr. Teper stated it will be the same but moved over to accommodate the additional pavement.

Mr. Gold asked if the existing home will be used as a residential home. Mr. Teper stated it will be used for strictly storage.

Mr. Gold made a motion to approve a Conditional Zoning Certificate and to approve the Site Plan for 236 N. State Road to allow a Retail/Convenience Store and Drive through in the I-1 District as submitted, subject to the following:

1. Subject to building permits from the Medina Building Department
2. Prior to issuance of a building permit, the applicant must provide a compliant site lighting plan addressing the requirements of Section 1145.09© of the Planning and Zoning Code.

The motion was seconded by Mr. Rose.

Vote:

Grice	<u>Y</u>
Gold	<u>Y</u>
Rose	<u>Y</u>
Lash	<u>Y</u>
Becks	<u>Y</u>
Approved	5-0

2. P16-08    139-145 N. Court    Dr. Loren Raymond    SPA/CZC

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated the site is located at the southwest corner of N. Court St. and W. Friendship St. Mr. Mendel stated the site is currently the offices of the Medina Area Chamber of Commerce and consists of three buildings of which two are unoccupied.

Mr. Mendel stated as part of the overall development review, the applicant requires site plan approval and a conditional zoning certificate for a proposed Personal and Professional Services with Drive-Thru (drive-thru bank) approval by the Planning Commission.

Mr. Mendel stated the drive-thru is a bank. Mr. Mendel stated the property is zoned C-2, Central Business District.

Mr. Mendel stated the applicant proposes the following project:

- Demolish the entire existing site including all buildings and pavement
- Construct a new 3-story mixed use building and accessory parking lot
  - Ground floor will consist of 6,850 sqft of flexible commercial space

- 2<sup>nd</sup> and 3<sup>rd</sup> floors will have five ~1,100 sqft residential apartments each (total of 10 residential units)
- A drive-thru lane on the south side of the building for an anticipated bank tenant

Mr. Mendel stated in addition to review by the Planning Commission, this project has been reviewed this evening by the Board of Zoning Appeals for a variance from Section 1135.06 of the City of Medina Planning and Zoning Code to allow a new building with a 6,850 square foot building footprint instead of the maximum allowed 5,000 square feet and was approved. The project also went before the Historic Preservation Board this evening for a certificate of appropriateness for the demolition of the existing buildings and site and construction of the proposed three story mixed use building and was approved.

Mr. Mendel stated mixed use buildings without ground floor residential units is a permitted use within the C-2 district, but the proposed drive-thru lane on the southside of the proposed building is a conditionally permitted use in the C-2 district requiring a public hearing for the review of a conditional zoning certificate.

Mr. Mendel stated maximum building height is 40 feet and the proposed building is 39 feet to the roof deck

Mr. Mendel stated the building complies with the building setback requirements, but exceeds the maximum 5,000 sqft building footprint requirement which the Board of Zoning Appeals reviewed and approved this evening.

**Conditional Zoning Certificate:**

Mr. Mendel stated the following are the general conditional use standards applicable to the proposed drive-thru use in the C-2 District per Section 1153.04(a)

- (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 the proposed drive-thru facility is small scale in execution as it only includes one lane queuing, a small service window and canopy and easy exiting to N. Court St. Mr. Mendel stated this an appropriate scale for such a use given the mixed commercial and residential properties immediately to the south.

Mr. Mendel stated the Zoning Code requires the Planning Commission to 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 April 16, 2016 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.

#### **Site Plan Standards:**

Mr. Mendel stated the following comments and considerations are based on the Site Plan requirements of Chapter 1109 and the Off-Street Parking and Circulation Requirements of Chapter 1145.

#### **Parking**

Mr. Mendel stated the project has a 19 space parking lot on the west end of the property to serve the ground floor commercial space and 10 residential units. Providing parking is solely at the applicant's discretion since Medina Codified Ordinance 26-78 established the downtown parking district which encompasses Public Square. Mr. Mendel stated the downtown parking district is exempt from the parking space requirements in Chapter 1145.

Mr. Mendel stated staff has provided advice on management of the parking within the context of how parking is generally perceived and used within the Public Square area.

Mr. Mendel stated although, parking is not required by the Planning and Zoning Code for this project, the parking area must meet the design requirements of the Code. Mr. Mendel stated the proposed parking area meets the requirements.

#### **Landscaping**

Mr. Mendel stated the proposed landscape plan nicely softens the edges of the building and parking lot along the W. Friendship St. frontage. Mr. Mendel stated this should help with the transition between the private and public realm for the non-building areas of the site.

#### **Building Design, Materials and Orientation**

Mr. Mendel stated the proposed building and accessory parking lot comply with all the applicable design guidelines outlined in Section 1109.04 of the Planning and Zoning Code. Mr. Mendel stated a three story mixed use building as proposed is

consistent with the intent and desire of the community within the Public Square area of the C-2 district. Mr. Mendel stated there is ample transparency of the public facades of the ground floor storefronts. Mr. Mendel stated the historical Victorian commercial building style is well executed with appropriate materials and proportions.

#### **Parking Area Lighting**

Mr. Mendel stated the applicant has provided a code compliant parking lot lighting plan.

#### **Staff Comments:**

**Building Department.** No comment at this time

**Police Department.** No comments

**Service Department.** No comment, but the applicant has been working closely with Sanitation regarding trash collection

**Fire Department** No comment at this time

**Engineering Department** See attached April 5, 2016 comments, entered into minutes as Exhibit A

#### **City Forester**

- Proposed new street trees in the public right of way (Friendship St and Court St.)
  - Replace proposed Cleveland Select on Friendship frontage with different species – Cleveland Select not an approved tree
  - Court St. street trees – New tree must be Zelkova (Green Vase) in a minimum 4'x 8' tree bed and encourage applicant replace the existing tree with a new Zelkova (Green Vase) because the existing tree is declining and the applicant replacing the tree would provide a consistent new appearance for the development.
  - Contact the City Forestry Dept at 330-721-6950 with questions

**Economic Development** No comment at this time.

Mr. Mendel stated based on review of applicable sections of the City of Medina Codified Ordinances and the findings detailed above, staff recommends the Planning Commission approve the Site Plan and Conditional Zoning Certificate requests with the following conditions:

1. Subject to building permits from the Medina Building Department.
2. Subject to review and approval of site development plans by the Medina Engineering Department as
3. Subject to the City Forester comments outlined in the Planning Commission April 14, 2016 staff report
4. Subject to the City Engineering Dept comments dated April 5, 2016

Mr. Grice opened the Public Hearing at 8:00 pm and asked for comments.

Christopher Weatherbee from Oberholtzer & Filous, 39 Public Square, Suite 201, Medina, Ohio 44256 commented. Mr. Weatherbee stated he is speaking on behalf of Clifford Properties who own the property adjacent property to the south. Mr. Weatherbee stated as a procedural matter, it looks like the public hearing notice that was published had the date of the public hearing at March 16<sup>th</sup> and not March 14<sup>th</sup> on page 4 of the Planning Commission report. Mr. Mendel checked the public hearing notice that was sent to adjoining property owners and also the newspaper. Mr. Mendel confirmed that both had the correct date of April 14<sup>th</sup>. Mr. Mendel stated the staff report that Mr. Weatherbee is referring to is not a legal document and the newspaper notice and letters to adjoining property owners is a legal document.

Mr. Weatherbee stated the purpose of the Conditional Use request is to add a drive-thru bank window along the south line of the property. Mr. Weatherbee stated Clifford Properties shares the south line. Mr. Weatherbee stated his client, Clifford Properties, for the last 30 plus years has been used by Clifford Properties for ingress and egress from his property as well as parking. Mr. Weatherbee stated the bank window is a Permitted use under Section 1135.05 of the Planning and Zoning Code, he disagrees if you look at 1129.02 (A)(7) of the Planning and Zoning Code, specifically references banks with a single lane drive-thru window which has changed over to Multi-Use District, not C-2 zoning. Mr. Weatherbee stated he has to think that was intentional. Mr. Weatherbee stated where the language allowing the Conditional Use under C-2 is far more general and allows simply drive-thru windows for personal and professional services with drive-thru, a bank drive-thru was explicitly separated in the ordinance for Mixed Use District. Mr. Weatherbee stated the mixed use zoning north of this area is far more appropriate for a bank drive-thru and the kind of traffic that would generate. Mr. Weatherbee stated that's why banking institutions have been moving from C-2 over to M-U zoning, Mr. Weatherbee stated for that reason alone, he and his client feels this Conditional Zoning Approval for the drive-thru should be denied. Mr. Weatherbee stated in addition, adding additional unregulated traffic adjacent to his client's property is going to change his ability to use the drive for egress and ingress to his property and represents an unfair change in the usage of this property over the last three plus decades.

Mr. Gold stated, in all due respect to Mr. Weatherbee's client, because he has been using it and no one has challenged it, it is not pertinent to the request before the commission today. Mr. Gold stated the new building is not egressing onto the Clifford property and it is separated from the Clifford property and the owner of the Clifford property will still be able to enjoy the use of the driveway. Mr. Gold stated that as was stated at the Board of Zoning Appeals meeting this evening, Clifford Properties will not be able to use the drive as a parking spot.

Mr. Mendel asked that testimony given at the Board of Zoning Appeals not be entered into the Planning Commission testimony. Mr. Gold stated he stands corrected.

Mr. Weatherbee stated if he is hearing Mr. Gold correctly, he interprets him to be saying that if his client wants to have that fight, he can have it in Common Pleas Court, not at the Planning Commission. Mr. Weatherbee stated he understands that position.

Mr. Mendel stated the subject property is not zoned M-U, Multi-Use, but is zoned C-2 so anything stated in Chapter 1129 of the Planning and Zoning Code is not pertinent to this site. Mr. Mendel stated any personal or professional drive-thru is a Conditionally Permitted Use in the C-2 District. Mr. Mendel stated if he stated this incorrectly in his staff report, he apologizes.

Gary Hetrick, owner of the property at 133 N. Court, commented. Mr. Hetrick stated the use of the alley from one side to the other has been used by his office building for 35 years. Mr. Hetrick stated he has paved it several times, has cleaned the leaves, and has plowed it by himself for 35 years with no other entity maintaining the property at all.

Mr. Hetrick stated the proposed development next door has changed his ability to add anywhere from two to eight cars parked in the alley and be able to get into your car and get in and out of the site would be highly questionable on a day to day basis. Mr. Hetrick stated he feels it would affectively result in the inability for him to maintain the tenants that he has in his building. Mr. Hetrick stated he wants to be clear that is the issue. Mr. Hetrick stated a move of the building as proposed to the north by eight feet would leave the alley that has been used by him for 35 years intact.

Mr. Becks asked Mr. Hetrick if he has had any discussions with the potential developer about possibility coordinating drive efforts. Mr. Becks asked if there is a curb proposed on the line. Mr. Mendel stated yes, there is a barrier curb proposed at the property line. Mr. Mendel stated there is a twelve foot wide drive isle and that would leave approximately twelve feet of pavement on Mr. Hetrick's property. Mr. Becks stated there is a section in the planning code that encourages coordination between adjoining property owners for parking and circulation. Mr. Becks stated it is nothing that the commission can impose but he would like to know if that was attempted.

Mr. Hetrick stated there was discussion along the lines of selling the alley. Mr. Hetrick stated that was not something he felt was a wise thing to do even with an easement. Mr. Hetrick stated there has been no discussion regarding cooperative sharing. Mr. Hetrick stated when you consider the variability of the people there on a given day, it is difficult. Mr. Hetrick stated coordination is dependant on the drive-thru traffic flow which is completely random. Mr. Hetrick stated it may be a difficult thing to coordinate.

Mr. Mendel stated there would be approximately 12 feet of pavement left on Mr. Hetrick's property and there is also approximately 5 feet of grass area on the south side of the pavement that may be able to be graded out and paved to provide 18 to 21 feet of drive aisle on his property which could allow for a parallel parked car and slow movement of another car bypass lane. Mr. Mendel stated it would be a cost to Mr. Hetrick but it is a solution. Mr. Hetrick stated there is a number of trees along the alley of which half of the trunks are split between Clifford Property and another neighbor's property. Mr. Hetrick stated it would take more than adding a few extra feet of flattened ground to make the alley maneuverable. Mr. Hetrick stated you would need to go over as far as you possibly could and it would require some type of a wall going a long way to a building that is already in place. Mr. Hetrick stated this would cause structural issues as

to whether taking that land away may cause movement of the building in the other direction in addition to the cost. Mr. Hetrick stated the idea that it would work out is limited.

Ian Jones, Mann Architects, 3660 Embassy Parkway, Fairlawn, Ohio commented. Mr. Jones stated he represents the applicant as the architect. Mr. Jones states the drive-thru proposal was for a bank. Mr. Jones stated as they developed the site plan they realized that in order to have sufficient parking, they needed to coordinate where the dumpster access is as well. Mr. Jones stated the dumpster which is in the corner would be accessed by the truck by coming from W. Friendship into the drive and down and back up to the dumpster with a rear loading truck. Mr. Jones stated it would exit out the alleyway or drive-thru on hours that would not conflict with the use of the drive-thru.

Mr. Jones stated the suggestion of moving the building north would take away at least 3 parking spaces on the site plan and would move the dumpster. Mr. Mendel stated he thinks the suggestion was moving the actual building which would not affect the dumpster location.

Mr. Mendel stated the drive aisle is mainly used as the driveway for Mr. Hetrick. Mr. Jones stated if they agreed to shift the building, would the number of feet be based on having a drive lane and horizontal parking spaces that are all compliant with the zoning code?

Mr. Rose asked what it would take to make Mr. Hetrick whole. Mr. Becks stated he has a problem with asking the applicant to provide further paving for something that would not be for his use. Mr. Becks stated there is going to be 24 feet of paved aisle per the proposed plan. Mr. Becks stated the challenge is there is a curb separating the two twelve foot sections. Mr. Rose stated if there was some sort of ground level separation of the property that would leave it flat so cars could drive over it and utilize the whole drive, that would be a solution. Mr. Becks stated the burden is not on the Planning Commission to suggest a solution. Mr. Becks stated the code requires a curb to delineate paved areas.

Mr. Grice closed the public hearing at 8:25pm.

Mr. Mendel stated the Historic Preservation Board reviewed the exterior of the building for compatibility in the district. Mr. Mendel reviewed the building elevations. Mr. Mendel stated the building will be a wood frame construction with masonry exterior. Mr. Mendel stated material samples are available for the board to see.

Mr. Jones stated the mass was broken up into three different styles on the north and east elevations. Mr. Jones stated the corner style is an Italianate Romanesque style. Mr. Jones stated on the outside is an Italianate type of Victorian and the twentieth Century Commercial in the center. Mr. Jones stated a cement fiberboard panel system was used in the back. Mr. Jones stated the Historic Preservation Board, during their review of the project, suggested the white be a more earth tone, natural color. Mr. Jones stated the applicant agreed to make that change. Mr. Jones stated the Historic Preservation Board

also requested that the cornice on the east and north portions of the building wrap around the building for the small portion. Mr. Jones stated the applicant agreed to do this. Mr. Jones stated the brick and cement board and details will be out of a composite material. Mr. Jones stated there are no details out of wood that would be susceptible to rot.

Mr. Becks stated he appreciates the well thought out submission.

Mr. Lash expressed concerns about parking for tenants in the apartments. Mr. Lash asked if there will be designated parking spots for the residential tenants. Mr. Jones stated it has been proposed to have the 9 spaces at the west end of the property designated to the residential units above. Mr. Jones stated there may be another space designated but definitely the 9 with signage.

Mr. Grice stated since it is in parking district 1, the applicant is not obligated to provide any parking. Mr. Grice stated from a practical standpoint, the residential tenant is going to look for convenient parking to load and unload their vehicles and such.

Mr. Mendel suggested the designated tenant spaces should be the closer spaces and the employees should walk further.

Mr. Rose is concerned about an existing business losing some of its functionality. Mr. Rose stated he would like the two owners get together and see if they can work something out before a final decision is made by the board. Mr. Rose stated he welcomes the new business coming in but he wants to keep the existing business also.

Mr. Jones stated they will begin the process of the project as soon as they receive approval from the board. Mr. Rose asked if the decision was postponed for 30 days, would it mess up the project plan. Mr. Jones stated they will not begin until the site is confirmed.

Property owner Loren Raymond stated he does not understand the intent but is willing to postpone the decision until the May meeting in order to speak with Mr. Hetrick.

Mr. Mendel stated he will work with the applicant for a solution.

The request was tabled by the applicant.

Mr. Becks stated the issue is that with a Conditionally Permitted Use, the board must look at the impact on the surrounding properties. Mr. Becks stated that is what he is looking at.

Mr. Jones stated he feels it is important at the May meeting to discuss how Mr. Hetrick's property adheres to the parking requirements.

Old Business:

Mr. Mendel gave an overview of the case. Mr. Mendel stated in January of 2016 the board reviewed several “housekeeping” items for the code. Mr. Mendel stated there were items regarding the definitions for “Heavy Manufacturing” and “Light Manufacturing” and some changes to the principle permitted and conditionally permitted uses for the I-1 District in Chapter 1141 of the Planning and Zoning Code. Mr. Mendel stated with that, the I-1 Zoning District requirements were not voted on in order to provide review from legal counsel. Mr. Mendel stated the Law Director has reviewed the draft revised text amendments.

Mr. Mendel stated legal counsel has provided additional information regarding the definition of noise. Mr. Mendel stated in the staff report under the revised definition of “Manufacturing Light” should state “noise *which is* plainly audible outside of the boundaries of the parcel”. Mr. Mendel stated it was mistakenly left off the staff report.

Mr. Mendel stated the I-1 Zoning District will move Office-Professional, Medical and Administrative under the conditionally permitted uses to permitted uses. Mr. Mendel stated it is a low intensity use of land and is appropriate to allow as permitted in a high intensity industrial district.

Mr. Mendel stated Conditionally Permitted Use regulations were added in section 37 and 38 to provide broader application to the heavy manufacturing. Mr. Mendel stated in section 38, the words “or I-3” is removed because there is no longer an I-3 zoning district.

Mr. Mendel stated staff recommends the Planning Commission approve the proposed text amendments and recommend them to City Council for approval.

Mr. Gold stated under “Manufacturing Light”, the words smoke, dust, or other airborne particulates and noise are written. Mr. Gold stated a welding shop which produces particulates and fumes which are evacuated through an exhaust fan or hood could technically not be permitted under this verbiage.

Mr. Gold stated a sheet metal shop that is pounding duct work together would carry noise outside the boundaries of the property line and would therefore be in violation of the new verbiage in the code. Mr. Gold stated both situations exist across the street from each other on State Road. Mr. Mendel stated the city would need to look at it on a case by case basis. Mr. Mendel stated many of the existing uses are long established existing uses which may fall into non-conforming otherwise it could continue to operate as it is until there is an expansion of the facility which could trigger a Conditional Zoning Review at that time.

Mr. Gold stated there is ambiguity that is up for interpretation. Mr. Mendel stated the new proposed text gives more definition by saying “noise at the property line”. Mr. Mendel stated noise is not just sound but is defined as having a negative connotation.

Mr. Gold stated the proposed wording could open the city up to a challenge. Mr. Mendel stated it would be subject to the Conditional Zoning Certificate Review process.

Mr. Gold stated an HVAC shop would typically be light manufacturing. Mr. Gold stated with the new verbiage, it would not be permitted because the noise carries and would eliminate that area for light manufacturing. Mr. Gold stated there needs to be some type of definition such as a decibel range. Mr. Gold brought up the example of welding which could produce white smoke. Mr. Gold stated it could be interpreted as smoke that is not permitted in light manufacturing.

Mr. Mendel stated the old zoning code had 3 pages of types of businesses in a permitted use table or conditionally permitted use table. Mr. Mendel stated some of those do not exist any longer or are not able to cover every situation. Mr. Mendel stated to provide flexibility, you create codes that are broadly applicable with some parameters. Mr. Mendel stated when someone says it is not specific enough, it goes back to being super specific in the code and inflexibility.

Mr. Mendel stated it is more difficult to define decibel levels because of ambient noise, time of day, etc.

Mr. Becks stated we may be creating more existing non-conforming businesses which is a challenge in improving your code.

Kimberly Marshall, Economic Development Director, stated she does not like to get too involved in the zoning code text changes until it impacts businesses.

Mr. Rose asked if the reason for the change in the code is due to the Fechko case last year. Mr. Mendel stated yes, this did come out of enforcement action with Fechko Excavating and their facility on Progress Drive.

Mr. Rose suggested defining what the issue was with the crushing of concrete and putting that into the code rather than adding verbiage which would cause a manufacturing business to not want to come to Medina.

Mrs. Marshall stated one business could be performing an operation that is impacting another business. Mrs. Marshall stated you need to weigh out the benefits and detriments and find a solution.

Mr. Becks stated if a specific restriction is put in against concrete crushing activities, and a business that crushes natural stone would like to come to Medina, it would create the same challenges but we have specified concrete. Mr. Becks stated if you try and regulate by specific use, you are chasing uses as they come up.

Mr. Rose suggested looking at the recycling rules and applying them to the process of crushing concrete to form aggregate for recycling. Mr. Becks stated if you are bringing

in natural stone and crushing it to be used in concrete, would we not have the same objections?

Mr. Gold stated he does not understand why the Law Director allowed such a broad definition to limit existing businesses regarding dust and noise.

Mr. Mendel stated the existing text of the definitions would still apply to Standard Welding or an HVAC company that is fabricating ductwork and such. Mr. Mendel stated it creates noise. Mr. Mendel stated under the existing Zoning text, they would still be considered Heavy Manufacturing. Mr. Mendel stated as proposed, provides more definition and applicability of the noise being "at the property line".

Mr. Mendel suggested defining rock crushing and go specific as a heavy manufacturing use. Mr. Gold stated he feels this would go to court in the form it is being proposed. Mr. Gold stated if this is not defined correctly, it could be a potential problem for the city but for the manufacturer.

Mr. Gold stated if the members of the Planning Commission change over the years, the interpretation of the code will be different. Mr. Mendel stated these are legal questions and this has gone through legal counsel and has been crafted by legal counsel including outside legal counsel by Walter & Haverfield. Mr. Mendel asked if there were specific changes that Mr. Gold would like to see. Mr. Gold suggested having a discussion with legal counsel and bringing it back to Planning Commission. Mr. Gold strongly urged the city to not pass the changes as submitted.

Mr. Mendel stated he welcomes suggestions from Mr. Gold.

Mr. Mendel stated the Law Director has encouraged the Planning Commission to make this change as soon as possible. Mr. Rose asked if the smoke does not come outside the building, would it matter. Mr. Becks stated if the process is contained in the building, it should be light manufacturing.

Mr. Becks stated the proposed changes fix a specific issue. Mr. Becks stated he agrees that the board needs to look at making the whole thing more specific. Mr. Becks suggested passing this now to take care of the immediate concerns and then come back to the board with proposed changes to address Mr. Gold's concerns.

Mr. Mendel stated he will provide text changes to address the concerns for the May 2016 meeting.

Mr. Rose made a motion to approve the various Code and Text Amendments as submitted in the Staff Report submitted as Exhibit A, items 1 through 4, in the minutes.

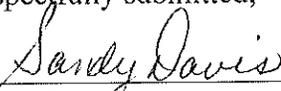
The motion was seconded by Mr. Lash.

Vote:

Grice	<u>Y</u>
Gold	<u>N</u>
Rose	<u>Y</u>
Lash	<u>Y</u>
Becks	<u>Y</u>
Approved	4-1

Having no further business, the meeting was adjourned.

Respectfully submitted,

  
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Sandy Davis

  
\_\_\_\_\_  
Rick Grice, Chairman