

MEETING DATE: 9-8-16

PLANNING COMMISSION

Case No. P16-17
1011 Wadsworth Road



CITY of MEDINA

Planning Commission

September 8, 2016 Meeting

Case No: P16-17

Address: 1011 Wadsworth Road

Applicant: Elaine Jones

Subject: Request to rezone 1011 Wadsworth Road from R-2 to C-S -
Reconsideration

Submitted by: Jonathan Mendel, Community Development Director 

Project Update:

On July 14, 2016, the applicant requested to rezone the property at 1011 Wadsworth Road from R-2 to C-S District. After reviewing the applicant's request and staff's analysis of the request, the Planning Commission recommended denial of the rezoning request from R-2 to C-S to the City Council.

On August 11, 2016, the applicant returned to the Planning Commission and requested the Planning Commission reconsider the July 14, 2016 denial recommendation on the rezoning request. The Planning Commission passed a motion to reconsider the request for rezoning at a future Planning Commission meeting. The applicant has solidified a position for the Planning Commission to consider and requests the Planning Commission review and consider it.

Attached to this report:

- Applicant's Amendment to Rezoning Request received August 22, 2016
- City of Medina – 1995 & 1983 Comprehensive Plan Updates – Future Land Use Maps
- July 14, 2016 P16-17 meeting minutes

Staff Analysis:

Staff has reviewed the applicant's amended rezoning request. The following outlines staff's analysis of the main points outlined by the applicant.

Spot Zoning Concern

The applicant believes spot zoning is not a concern because in the past the City of Medina has rezoned relatively small individual properties in the past from residential to commercial zoning, particularly in the corridor around the intersection of South Court St. and Sturbridge Dr. Additionally, the applicant emphasizes there is no minimum zoning district size for the C-S Zoning District, thereby permitting the individual and disconnected rezoning of properties to the C-S district.

The applicant is correct that there is no minimum district size in the C-S zoning district and the City had in the past rezoned properties in the South Court and Sturbridge corridor from residential to commercial zoning on a property by property basis, but the critical analysis when reviewing a rezoning is consistency with the Future Land Use Map of the Comprehensive Plan in effect at the time of the request.

In looking back to the 1995 and 1983 Comprehensive Plan Update Future Land Use Maps (in the packet), there is a specifically delineated district of Commercial Land Use planned for the South Court corridor near the Court/Sturbridge intersection. Therefore individual, piecemeal rezoning of properties to commercial zoning within a corridor designated for commercial land use on a Comprehensive Plan's Future Land Use Map is appropriate and consistent with the community's desires.

As stated in the July 14, 2016 staff report on this rezoning request, the current 2007 Comprehensive Plan Update Future Land Use Map designates the subject property as Residential High Density and is part of the unified area of such land use designation along Wadsworth Road. If the subject property was rezoned to R-4 Multi-Family Residential (which is the zoning district consistent with the Residential High Density land use map designation), the action would be appropriate even though it would be the only property zoned R-4 within the unified area shown on the 2007 Future Land Use Map (the other properties are currently zoned R-3 or R-2).

"Contract Zoning" – Private deed Restricted Land Uses

The applicant puts forward the possibility of rezoning the subject property to R-4 or C-S or a hybrid zoning district nominally R-4 or C-S with private deed restrictions to permit or prohibit land uses that are deemed to be appropriate or inappropriate depending on the zoning district used. The applicant suggests R-4 zoning with permission to allow the lowest intensity land uses of the C-S District (such as personal/professional services and professional/medical offices) though some form of zoning overlay. Alternatively, the applicant suggests C-S zoning with private deed restrictions prohibiting the more intensive uses that are possible in the C-S District's permitted and conditionally permitted use tables. These two options are problematic because there are no clear mechanisms for the former and limited transparency in the later.

The R-4 district with a land use permission overlay would only fit within the Special Planning District overlay process outlined in Chapter 1114 of the Planning and Zoning Code. This is a process wherein the applicant effectively creates a development area specific zoning district with specially created regulations for that District only. If the applicant wished to proceed with that process, a new application would be required and it would require additional time beyond the time already spent on this process to date.

The C-S district with private deed restrictions prohibiting certain permitted or conditionally permitted uses would create a transparency and enforcement problem in the future. A codified and accessible zoning code and map are created to permit ease of use for both City staff and the public. Creating private deed restrictions which limit uses will prevent true understanding of the development potential of the property itself and how neighboring owners or occupants understand the potential. Additionally, City staff is not responsible for the enforcement of private deed restrictions on properties and such restrictions will simply create confusion and false expectations in the future when someone wishes to do something and the private deed restrictions are not consistent with the possibilities outlined in the zoning code. Therefore, this option will have negative complications, less transparency and high potential for negative unintended consequences.

Staff Recommendation:

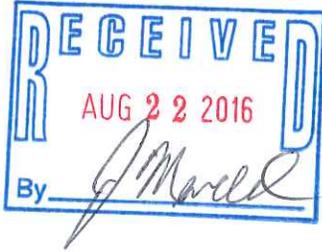
Upon reviewing the applicant's amended rezoning request and analyzing it against the zoning code and best practices, staff recommends the subject property be rezoned to R-4, Multi-Family Residential with no overlay or private deed restrictions. This is based on the fact that the R-4 zoning district is consistent the Residential High Density land use designation of the City of Medina 2007 Comprehensive Plan Update Future Land Use Map.

If approved by the City Council, the R-4 zoning would permit the applicant to develop the property under the allowances and restrictions of the applicable portions of the codified Planning and Zoning Code (Part 11 of the Codified Ordinances of the City of Medina).

Next Steps:

If recommended by the Planning Commission, the rezoning map amendment must then be reviewed and approved by the City Council through the normal legislative process required for zoning map amendments.

Applicant's
Amendment to
Rezoning Request



CITY OF MEDINA
Community Development Department
123 North Elmwood Street
Medina, Ohio 44256
330-722-9023

AMENDMENT TO ZONING COMMISSION APPLICATION FOR ZONING APPROVAL RELATING TO PROJECT ADDRESS: 1011 Wadsworth Road, Medina, Ohio 44256, Parcel No.: 028-19D-09-087, Case No. P16-17

This Amendment relates to the original Application for CS District Zoning Map Amendment and modification thereof to allow reconsideration of CS Commercial Limited Business Service District and/or in the alternative R4 Multi-Family Urban Residential District or the possibility of an Overlay District to include both of the above. This Amendment is based upon the Motion for Reconsideration by Attorney Stanley D. Scheetz, heard before the Medina City Zoning Commission on August 11, 2016, which voted 4-0 to allow reconsideration of an Amended Application to include the following:

Reconsideration of the original Application for C-S, i.e. Commercial Service District, and/or in the alternative for an R4 Multi-Family Urban Residential District, or Overlay Zoning allowing the primary zoning district to be R4 Multi-Family, with the overlay district for secondary utilization of the property being the C-S, Commercial Service District, in order to provide the greatest flexibility in the potential development of the 3.49 acre parcel that has been dormant for approximately 10 years.

Furthermore, it should be understood that specific Conditionally Permitted Uses may be excluded from the Conditionally Permitted Use list by private deed restrictions that would be agreed upon by the owner of the property and drafted by Attorney Stanley D. Scheetz to effectively further limit the potential development of the property while simultaneously providing flexibility for the sale and future development of the property, and more specifically eliminating some of the issues previously set out by the Zoning and Planning Director, Jonathan Mendel, such as the expanded Conditionally Permitted Uses allowing hospitals, schools, banquet or conference centers, to insure that any subsequent site development excluded such higher impact uses and to absolutely insure that either Residential, R4, development with a maximum unit development of eight (8) units per acre, and/or a Commercial Service District would solely allow professional offices and/or business services that provide minimal impact to the adjacent residential areas so that a win-win condition is created to allow the expeditious sale and development of the 3.349 acre parcel.

We are currently exploring sale to three (3) individuals and/or non-profits that would use the property for either single family detach, single family attached, multi-family development and/or for professional offices and/or limited business services as

described in the respective Permitted Uses, and/or for Lower Impact Limited Business uses that could be considered substantially the same in nature to the purpose of the respective Districts.

Furthermore, Stanley D. Scheetz presented a package to each individual Zoning and Planning Commission Member at the August 11, 2016 meeting, which is summarized by the following, relating to each of our requested zoning alternatives, and/or the primary Zoning Request and/or Overlay District to be created in the future, at the discretion of the Zoning and Planning Commission future recommendations.

First, the original request by Elaine M. Jones, was for the C-S, Commercial Service District, “to establish an environment conducive to well located and designed office building sites to accommodate professional offices, non-profit organizations, and limited business service activities.”

The facts and reasons that this particular zoning designation makes sense for this area, are as follows:

1. The purpose clause is very specific and very limited to professional offices, non-profit organizations and limited business services. This is a fit for this area, as it has an extremely low impact on any surrounding properties and generates very little traffic on a regular basis.
2. There is no minimum district size for the C-S, Commercial Service District, as established in the standards, and no minimum lot size in the Medina City Code.
3. This is not “spot zoning,” as the parcel is over 3 acres, i.e. 3.349 acres, and many CS or even C1, C2 or C3 parcels within the City of Medina, are zoned on 1 acre or less parcels, i.e. examples on South Court Street, SR3 at Hartford Drive and South Court, where Dr. Joseph Blackburn and Dr. Jeffrey Esterburg are located, where the Minute Mart, formerly Dairy Mart, is located, and at the site of the Handel Ice Cream Shop is located across the street, none of which were treated as “spot zoning.”
4. Section 1105.0128, defines Personal and Professional Services, as including but not limited to, business that do not create or generate high traffic, and are specifically “limited business services,” such as a neighborhood health club, day spa, fitness facility, shoe repair, barber shop, beauty shop, banks, real estate offices, accountants, lawyers, etc., with the exception that no sexually oriented business shall be located within the District.
5. Section 1131.02, Principally Permitted Uses are most specific and confirm the limited nature of the businesses, such as offices for professional medical and administrative use; personal and professional services, as set out previously; other similar uses as determined by the Planning Commission that create no additional impact on the neighborhood.
6. Section 1131.04, Conditionally Permitted Uses, are relatively expansive, but may be limited further by private deed restrictions that would restrict

the options regarding the Conditionally Permitted Uses, such as eliminating such things as Conference Center/Banquet Facility or Meeting Halls, as well as Hospitals, Public or Private Schools for primary or secondary education, and any other specific Conditionally Permitted Uses of concern to the Zoning and Planning Commission or the City Council, could be agreed upon by the respective parties and memorialized by covenants and restrictions placed on said land.

7. Section 1131.05, Lot Development Standards for C-S, Commercial Service District are further exemplified and emphasized as follows:
 - a. No minimum lot size, examples previously within the City of Medina, on the South side of SR 3, are parcels as small as $\frac{1}{4}$, $\frac{1}{2}$, $\frac{3}{4}$, 1, 1-1/4, 1-1/2, 1-3/4, 2, ..., none of which were deemed to be "spot zoning."
 - b. Minimum lot width and frontage, 100 feet, allowing for 4 lot splits on Wadsworth Road, for four building sites for commercial, within the C-S District.
 - c. **No Minimum District Size**

In addition, in the alternative, we have requested the R4 Multi-Family Urban District, whose purpose clause states, "to encourage residential developments in areas "adjacent to community shopping facilities or as a transition between lower density residential uses and non-residential uses." Development is to consist of single family, two family, limited multi family in groupings, which will provide for efficient development and utilization of community facilities, such as water, sewer, streets and schools."

Fact:

1. The R4 Multi-Family Urban District purpose coincides with the Medina City Comprehensive Plan of ten years ago, and allows up to eight (8) units per acre, by its design standards, and is specifically endorsed by your comprehensive plan, as it is surrounded on two sides by such developments.
2. The eight (8) units per acre maximum, allows developments of apartments, condominiums, detached single family dwelling units, attached two family dwelling units, permanent Supportive Housing, Villas, Townhomes, and zero lot line and/or cluster homes, all of which could be configured on the 3.491 acre parcel, allowing from 12 to 27 units depending on single family detached, duplexes and/or multi-family units in a diversified format, either on a public or private cul de sac.
3. Section 1127.02 Principally Permitted Uses, include residential, public and semi-public as well as commercial, by the Medina City Zoning Code. (R-4).
4. Section 1127.04 Conditionally Permitted Uses are extremely broad, in both the residential, public and semi-public areas, and could be further reduced in use categories by private deed restrictions, such as prohibiting mobile home parks, nursing home and assisted living and independent living facilities on the residential side, as well as public

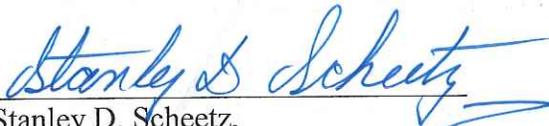
or private schools for primary education or secondary education, if same are of a concern to the Medina City Zoning Commission and/or City Council.

Section 1127.05 Lot Development Standards, allows minimum lot sizes for single family detached dwellings of 7,000 square feet, which would provide single family housing on a cul-de-sac street, between 11 and 13 homes, and/or allow for the development of multi-family dwellings based on 5,400 square feet per dwelling, up to 8 units per acre. In addition, R-4 District allows for a minimum lot width of 65 feet for single family, 85 feet for two family duplex and 100 feet for multi-family and/or single family attached. **There is No Minimum District Size None.**

All of the above are rationale for approving either or the C-S, Commercial Service District and/or the R4 Multi-Family Urban Residential District, and/or considering zoning the parcel primarily for R4 Multi-Family Urban Residential District and overlaying same with the C-S, Commercial Service District, to allow maximum flexibility for the ultimate development of the dormant 3.349 acre parcel, with covenants and restrictions to be agreed to between parties regarding the types of Conditionally Permitted Uses to be allowed on said property and acknowledging that any similar uses could be approved by the Zoning and Planning Commission and City Council that are of a more minimal impact than those previously approved by the Zoning Code.

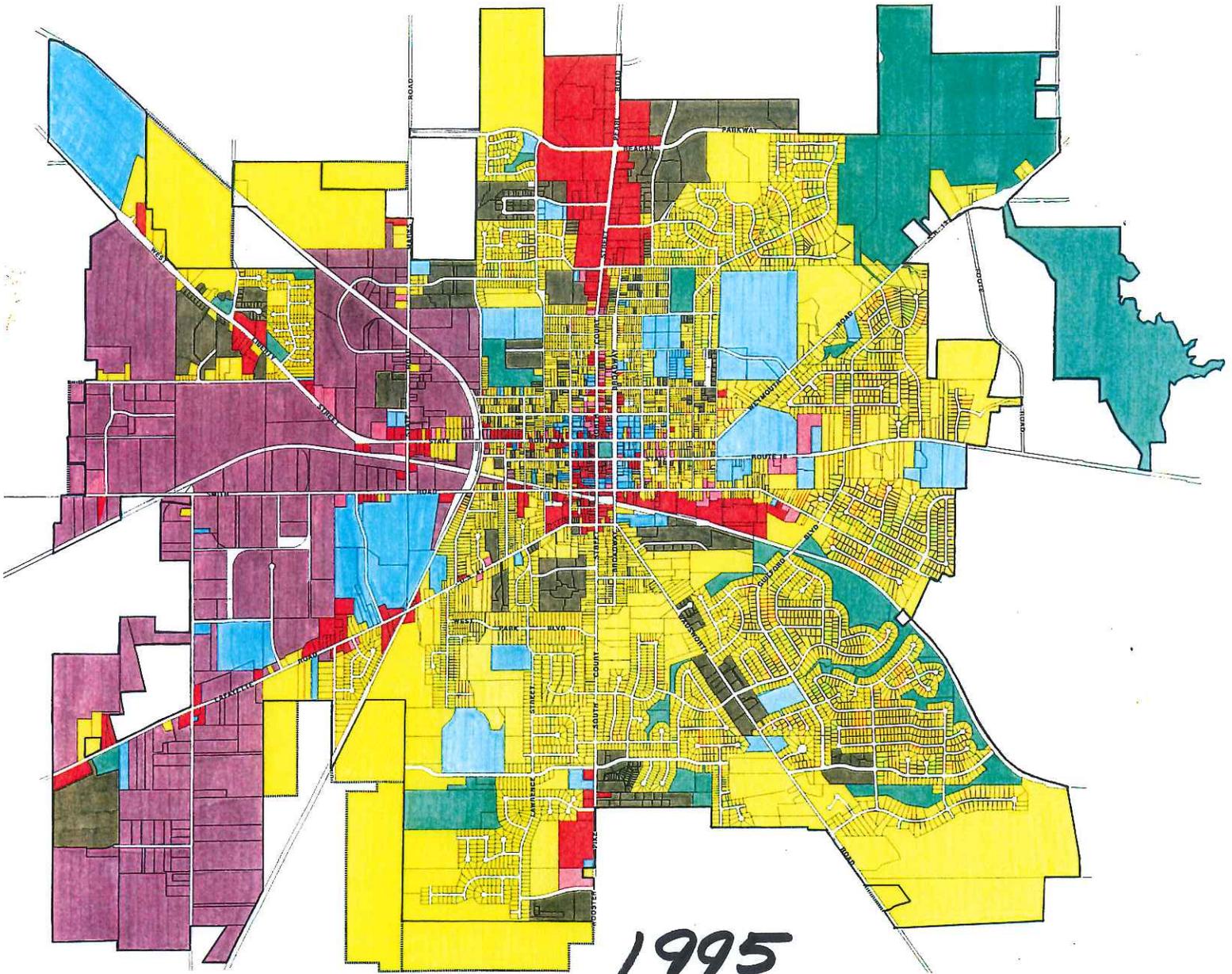
I, Stanley D. Scheetz, Attorney at Law, authorized representative of Elaine M. Jones, hereby request that the Zoning and Planning Commission of the City of Medina approve either the C-S, Commercial Service District, and/or the R-4 Multi-Family Urban Residential District, individually, or consider allowing the alternative zoning in the form of a primary zoning in one classification and an overlay zoning in the alternative, to insure the expeditious sale and development of said property. Furthermore, fully realizing that the Zoning Commission will have ample opportunity for site plan evaluation at actual submission of plans, to adequately provide for properly screening the proposed improvement from the neighbors to the south, west and north of the property to insure that the site is developed in harmony with the neighborhood, as the use across the street is a City of Medina Fire Station.

Respectfully submitted,



Stanley D. Scheetz,
Attorney at Law, and Authorized
Agent for Elaine M. Jones
225 E. Liberty Street
Medina, Ohio 44256
330-722-2636

City of Medina –
1995 & 1983
Comprehensive
Plan Update Future
Land Use Maps



CITY OF MEDINA
FUTURE LAND USE

CITY OF MEDINA COMPREHENSIVE PLAN

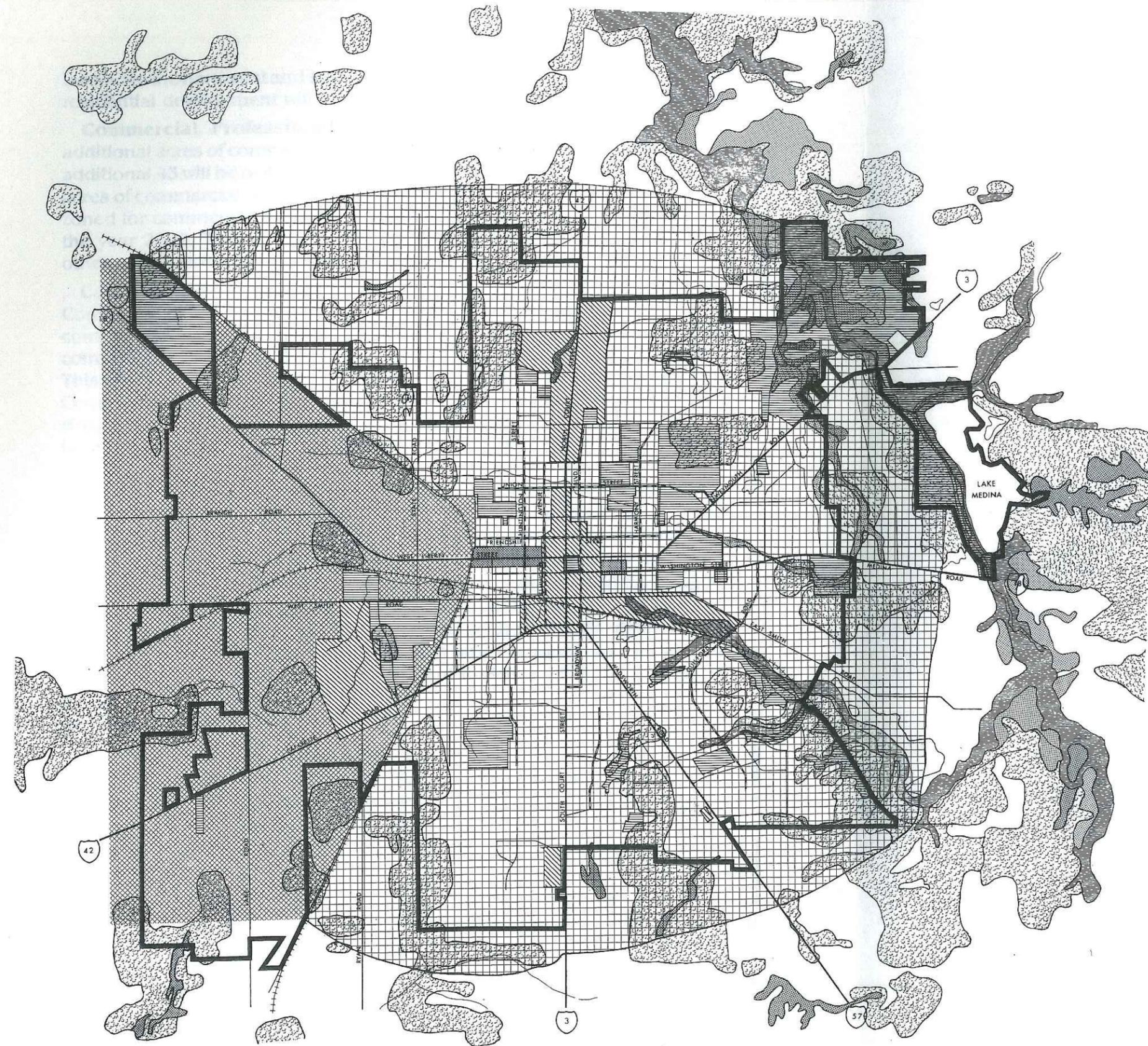


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BY PLUM, KLAUERNER & GERRMANN CONSULTANTS

- | | | | |
|---|---|--|--|
|  SINGLE FAMILY DETACHED RESIDENTIAL |  RETAIL COMMERCIAL |  INDUSTRIAL & WAREHOUSING |  PARKS, RECREATION & OPEN SPACE |
|  MULTIFAMILY/ATTACHED RESIDENTIAL |  OFFICE COMMERCIAL |  PUBLIC/SEMI-PUBLIC INSTITUTIONAL |  VACANT/UNDEVELOPED |

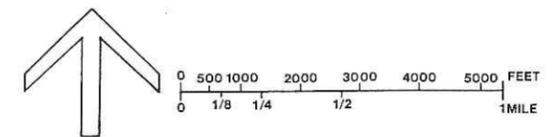
BASEMAP PROVIDED BY MEDINA COUNTY ENGINEER'S OFFICE



LEGEND

-  MAJOR STAND OF VEGETATION
-  HIGH SLOPE
-  FLOOD PLAIN
-  LOW TERRACE
- GENERAL LAND USE**
-  COMMERCIAL
-  PUBLIC
-  MIXED USE
-  INDUSTRIAL
-  RESIDENTIAL

**CITY OF MEDINA
FUTURE LAND USE
COMPREHENSIVE PLAN 1983**



PREPARED BY CENTER FOR URBAN STUDIES
THE UNIVERSITY OF AKRON AKRON, OHIO

July 14, 2016
P16-17
Planning
Commission
meeting minutes



CITY of MEDINA

Planning Commission

Organizational Meeting

Planning Commission Meeting

Meeting Date: July 14, 2016

Meeting Time: 6:00 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 June 9, 2016 minutes as submitted. Mr. Rose seconded the motion.

Vote:

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

Announcements: Mr. Mendel stated he is still working on the text amendments for Rock Crushing/Heavy Manufacturing and Substance Abuse Facilities.

Mr. Rose stated City Council is on break and will resume on the last Monday in August.

Old Business: None

New Business:

~~1. P16-16 821 E. Washington Lorraine Mion COA
 Mr. Benko gave a brief overview of the case. Mr. Benko stated the property is located on the north side of E. Washington Street east of Spring Grove Street and west of Guilford Blvd.~~

Mr. Mendel stated in light of the timing, staff would recommend an approval be conditioned on the applicant finalizing the property acquisition and consolidation.

Mr. Mendel stated in reviewing the proposed site plan and applicable code requirements, staff recommends the Planning Commission **approve** the Site Plan application with the following condition:

1. The applicant shall finalize the acquisition of the property from the adjacent property owner to the east before a zoning certificate can be issued.

Present for the case was Charles F. Coleman Jr., owner. Mr. Coleman stated they have the signed agreement with A.I. Root Co. Mr. Coleman stated he appreciates the city staff working with them to stay in operation. Mr. Coleman stated they need to transfer material around the site and this will allow them to manage the new site plan. Mr. Coleman stated there are no curbs being proposed as they would be destroyed by trucks and tow motors.

Mr. Lash asked if there will be semis or large trucks unloading in the back. Mr. Coleman stated no, all trucks will unload from State Road.

Mr. Becks asked if the front parking lot where the handicap space is located has an appropriate depth and width. Mr. Mendel stated yes, it is a continuation of the condition that exists. Mr. Mendel stated they are not required to comply.

Mr. Coleman stated there will be more room with the new plan for the handicap parking area.

Mr. Rose made a motion to approve the Site Plan for 260 State Road as submitted.

The motion was seconded by Mr. Becks.

Vote:

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

3. P16-17 1011 Wadsworth Rd. Elaine Jones COM

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a request to rezone 1011 Wadsworth Road from R-2 to C-S.

Mr. Mendel stated the subject property is 3.35 acres on the west side of Wadsworth Road just north of the intersection of Wadsworth Road and Sturbridge Drive. Mr. Mendel stated the site is occupied by an approximately 3,000 sqft one story building and an accessory parking lot.

Mr. Mendel stated the applicant requests rezoning the property from R-2, Medium Density Residential to C-S Commercial Service. Mr. Mendel stated in 1998, 2000 and 2002, the applicant's husband was granted a Conditional Zoning Certificate for an office development at the property. Mr. Mendel stated the project was not implemented and the approvals expired. Mr. Mendel stated the applicant wishes to sell the property and believes the C-S zoning district is more appropriate for this property than the current R-2 zoning.

Mr. Mendel stated the subject property is presently zoned R-2 Medium 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. Mr. Mendel stated Commercial and office uses are not permitted in the R-2 zoning district.

Mr. Mendel stated the applicant proposes rezoning the subject property to C-S Commercial Service. Mr. Mendel stated the permitted uses include general office and personal/professional service uses and is designed to be a limited intensity commercial zoning district. Mr. Mendel stated the conditionally permitted uses include churches, child daycare centers, hospital, schools, conference centers, etc.

Mr. Mendel stated the applicant provides discussion points which they believe support the request to rezone from R-2 to C-S. Mr. Mendel stated the applicants supporting arguments include the following highlights:

- The Planning Commission approved a Conditional Zoning Certificate for a professional/medical office development plan in the past.
- No residential developers have inquired about the property while it has been for sale.
- C-S zoning uses would benefit the surrounding residential neighborhoods by potentially providing more convenient offices uses nearby and possibly reducing trips to other parts of the City where such uses already exist.
- The concern about spot zoning is minimized due to the size of the property and the greater potential for buffering from adjacent residential areas/uses.
- Professional/medical office uses will not negatively impact the surrounding residential uses.

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 and south along Wadsworth Road.

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 and south along Wadsworth Road. Mr. Mendel stated the future land use map designation represents the community's wishes that the subject property be consistent in land use and development intensity with the surrounding existing residential multi-family developments.

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 district.

Mr. Mendel stated although the permitted uses in the C-S district are limited, the conditionally permitted uses in the C-S district provide for a wider range of high intensity land uses (such as churches, child daycare centers, hospitals, schools, conference centers, etc.) that can have a greater potential for negative impacts on the surrounding residential land uses.

Mr. Mendel stated the surrounding neighborhood is a mix of single family detached housing, low scale townhouse style multi-family developments and a fire station. Mr. Mendel stated the nearest commercially zoned and developed areas are about a mile to the west along Sturbridge Drive at S. Court Street and north along Wadsworth road at Lafayette Road.

Mr. Mendel stated locating a low scale limited use commercial zoning district, such as the C-S District, would be less intensive than the more intensive commercial zoning districts such as the C-1, C-2, or C-3 districts, but the C-S zoning district would be the only commercially zoned property in the immediate and surrounding neighborhood.

Mr. Mendel stated Staff **does not recommend rezoning** the subject property from R-2 Medium Density Urban Residential to C-S Commercial Service because of the following reasons:

1. The C-S district is not consistent with the 2007 City of Medina Comprehensive Update - Future Land Use Map designation of 'Residential High Density'.
2. The C-S district would be the only commercially zoned parcel in the immediate and wider vicinity and the range of permitted and conditionally permitted uses have greater potential for negative impacts on the surrounding residential land uses and is not appropriate in this location.

Present for the case was Elaine Jones, property owner, 461 Woodlake Dr., Medina. Mrs. Jones stated the reason for not going forward with the past approvals was her husband

passed away unexpectedly in January of 2007. Mrs. Jones stated he had an approval for medical offices and law offices in the building.

Mrs. Jones stated the building has been vandalized numerous times over the past few years. Mrs. Jones stated she does not believe the rezoning would have a negative impact on the neighborhood. Mrs. Jones stated she has numerous police reports of vandalism on the property. Mrs. Jones stated she has put up fences but has had people parking on the property, and skateboarding off the roof that was replaced 3 years ago. Mrs. Jones stated over the Memorial Day weekend, she had over \$500 in damage done to the property.

Mrs. Jones stated if the property were occupied, it would keep the vandalism down. Mrs. Jones stated it would be a benefit to the city by bringing in tax revenue. Mrs. Jones asked that those things be considered. Mrs. Jones stated she would like the ability to rent the property or sell the property as a church, nursery school, or medical offices. Mrs. Jones stated she lives in the neighborhood and is not looking at putting in a high traffic business. Mrs. Jones stated she has lived in the neighborhood for over 35 years and is mindful of what is going in there. Mrs. Jones stated she has spoken with Ken & Sherry Fuller from Ken Cleveland builders and has been told the property is not large enough to develop as residential. Mrs. Jones stated she has also called other builders and they are not interested in it. Mrs. Jones stated she has not been able to move on with her life and retire because she cannot do anything with this property. Mrs. Jones stated Real Estate agents have told her they cannot sell the property because of the zoning.

Also present for the case was Mrs. Jones' attorney, Christopher Jankowski. Mr. Jankowski stated there is a letter from Richard Kassouf from New Hope Realty who marketed the property from 2010 to 2011 that has been submitted as part of the request which states there were many proposals received for use of that property which included educational facilities, churches, daycare, etc. Mr. Jankowski stated none of which complied with the current zoning. Mr. Jankowski stated Lynn Methlie from REMAX submitted a letter stating when she had listed the property in 2012 to 2013, there were 16 perspective buyers including yoga centers, training/workshop for handicap citizens, and convenient stores, medical offices, condos, etc. Mr. Jankowski stated these did not comply with the current zoning. Mr. Jankowski stated there is also an e-mail from Paul Doerr Jr. indicating a potential buyer for an urgent care center. Mr. Jankowski stated there are letters of support from neighbors in the area who are in favor of the office/medical use. Mr. Jankowski entered photos of vandalism into the record.

Mrs. Jones stated when the sewers were repaired on Rt. 57, a truck was parked on her property for a week from a contractor working for the city. Mrs. Jones stated semis have parked in her driveway and she had repaired the driveway from the trucks.

Mr. Jankowski stated a letter was received today from someone who is interested in the property. Mr. Jankowski asked that the letter be entered into the record.

Mr. Grice asked Mr. Mendel to name all the permitted and conditionally permitted uses in the R-2 and also the same for the CS district.

Mrs. Jones stated she also had Montville Township Police Department interested in using the building as an adjunct station and they were told they could not due to the zoning.

Mr. Mendel stated he spoke with Chief Grice of the Montville Police Department and the discussion was under the existing zoning it would fit the R-2 zoning district under the conditionally permitted use categories. Mr. Mendel stated he did not tell them that it was not permitted or conditionally permitted in the existing zoning. Mr. Mendel stated they may have made the decision to not go forward with the project and he does not know what the Realtor stated.

Mrs. Jones stated she was told the opposite.

Mr. Mendel stated the following:

Permitted uses R-2 District-single family detached dwelling

Conditionally Permitted uses R-2 – group homes up to 8 individuals, in-law suite, 2 family dwelling, nursing home/assisted living facility/independent living facility, cemetery, conservation use, public or quasi-public owned park or recreation facility, public and parochial education institution for primary education, public and parochial education institution for secondary education, publically owned or operated government facility, religious place of worship.

Permitted uses CS District- office/professional/medical/administrative, personal and professional services (banks, barbershops, etc) and other similar uses as determined by the Planning Commission.

Conditionally Permitted uses CS- Bed & Breakfast Inn, cemetery, conservation use, education institution for higher education, publically owned or operated governmental facility, public or quasi-publically owned private park or recreation facility, public and parochial education institution for primary education, public and parochial education institution for secondary education, public utility, religious place of worship, urban garden, child daycare center and nursery, conference center/banquet facility or meeting hall, hospital, personal and professional services with a drive-thru, research and development laboratory and processing with no external hazardous noxious or offensive conditions.

Mr. Mendel stated the City Staff and Planning Commission need to conceptualize what could potentially go into that site if rezoned CS. Mr. Mendel stated the long range impact of all permitted and conditionally permitted uses need to be considered.

Adjoining property owner Jimmy Mitchell of 1095 Sunhaven Drive commented. Mr. Mitchell stated he is interested in the building for a school to teach music lessons. Mr. Mitchell stated he owns an organ repair business and is working out of a one car garage as his shop. Mr. Mitchell stated he repairs musical instruments. Mr. Mitchell stated the building would be what he needs. He feels the business would be a benefit to the community as it would give music lessons to low income children for free.

Mr. Rose asked if Mr. Mitchell's proposal could fit into the current zoning as a school. Mr. Mendel looked up the zoning and stated it would be a stretch.

Mr. Becks stated they are trying to see if there is any opportunities to work within the existing zoning. Mr. Becks asked how we are currently classifying a mission based with a religious type outreach center. Mr. Becks gave an example of the Salvation Army. Mr. Mendel stated that would not be a place of worship. Mr. Mendel stated they usually are classified as a retail store or office space since they typically have a retail component.

Mr. Mendel stated over the years there were several inquiries in which they had to say no to the type of business but also informed them that the option is there for a Conditional Zoning Certificate or a Land Use Variance.

Mr. Becks asked if under the current code, the existing owner could apply for a Land Use variance without transferring ownership. Mr. Mendel stated in his experience, the person operating the business needs to make that request. Mr. Mendel stated he does not feel it is a good practice to permit general land use variance requests. Mr. Mendel stated if there is a purchase agreement contingent on the approval of a land use variance would be acceptable.

Mr. Mendel stated staff is happy to educate the public on what potential is there for the property and what processes need to occur.

Mr. Lash asked Mr. Mitchell if his business involves any retail sales. Mr. Mitchell stated yes, but not on the premises and nothing that would generate traffic.

Mr. Mendel stated education institution refers to a public or private facility that provides the curriculum of elementary or secondary academic instruction including Kindergarten, Elementary school, Junior High School, and High School, technical and collegiate level courses. Mr. Mendel stated a home school is not considered an educational institution.

Mr. Mendel stated providing music lessons would not fit the above definition. Mr. Mendel stated it may be eligible for a Land Use Variance under the current zoning.

John & Terri Baisden of 451 Sturbridge Drive commented. Mrs. Baisden stated they are adjoining property owners. Mr. Baisden stated they are against the rezoning request. Mr. Baisden expressed concerns about his property value declining if the zoning were to change. Mr. Baisden stated changing the zoning to help get Mrs. Jones under the financial burden of the property should not place a burden on all the other property owners.

Mr. Grice advised the public that the Commission will only be making a recommendation to City Council. Mr. Grice stated City Council is the only entity with the authority to change the zoning but they do so with a recommendation from the Planning Commission.

Mr. Grice stated once the property is sold, any of the conditionally or permitted uses can be applied for which is why the Commission must look at the whole picture.

Tina Stepp of 991 Wadsworth Road, adjoining property owner, was sworn in by the Court Reporter. Ms. Stepp stated she lives next to the property and is concerned about what could potentially go into the space. Ms. Stepp stated she has concerns about the property values declining. Ms. Stepp stated she has lived there two years and has not been made aware of any vandalism.

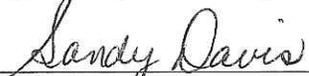
Mr. Gold made a motion to approve a recommendation to City Council to rezone 1011 Wadsworth Road from R-2 to C-S as submitted.

Mr. Lash seconded the motion.

Vote:	
Grice	<u>N</u>
Lash	<u>N</u>
Becks	<u>N</u>
Rose	<u>N</u>
Gold	<u>N</u>
Denied	5-0

Having no further business, the meeting was adjourned.

Respectfully submitted,



Sandy Davis



Rick Grice, Chairman