

**MEETING DATE: 10-10-19**

# **PLANNING COMMISSION**

**Case No. P19-19  
1088 S Court Street**



**CITY of MEDINA**  
**Planning Commission**  
**October 10, 2019 Meeting**

**Case No:** P19-19  
**Address:** 1088 S. Court St.  
**Applicant:** Tucker Ellis, LLP representing Trillium Creek, LLC  
**Subject:** Request to rezone 1088 S. Court St. from R-3 to C-1  
**Submitted by:** Jonathan Mendel, Community Development Director 

**Subject Site:**

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

**Project Introduction:**

The applicant requests rezoning the property from R-3, High Density Urban Residential to C-1, Local Commercial. 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-1 district.

Please find attached to this report:

1. Applicant's narrative for the rezoning and development plans received September 19, 2019
2. Current City of Medina Zoning Map
3. Future Land Use map from the City of Medina 2007 Comprehensive Plan Update and a detail of the subject property's immediate vicinity on the map
4. C-1, Local Commercial
  - a. Principally Permitted and Conditionally Permitted use tables
5. Aerial photograph with City of Medina Zoning Districts overlay.

**Present Zoning:**

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

**Proposed Zoning:**

The applicant proposes rezoning the subject property to C-1, Local Commercial. This zoning district permits a limited range of commercial uses such as office, retail and personal/professional services. The conditionally permitted uses are a range of uses such as bed and breakfasts, churches, gas stations, restaurants and personal/professional services with drive through. The applicant provides discussion points to support their request to rezone from R-3 to C-1, which are attached in the packet.

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

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

**Staff Comment:**

The City's 2007 Comprehensive Plan Update designates the subject property as 'Residential High Density', which is equivalent with the existing multi-family development patterns on many of the neighboring properties to the north and east along the eastside of S. Court St.

The C-1, Local Commercial zoning district is specifically designed to be a low intensity general commercial district typically used elsewhere in the city on relatively small sites closely situated near less intensive land uses and/or zoning districts, such as at the northwest and northeast corners of N. Court St. and Homestead St.

If the proposed rezoning is approved by City Council and becomes effective, the applicant's proposed and intended land use for the subject property will require a Conditional Zoning Certificate review and approval by the Planning Commission. This zoning process requires a public hearing by the Planning Commission.

**Next Step:**

The Planning Commission should weigh the information provided and forward a recommendation to City Council on the rezoning request from R-3, High Density Urban Residential to C-1, Local Commercial.

Applicant's narrative  
in support of the  
rezoning &  
development plans  
received September  
19, 2019

# Tucker Ellis | LLP

**Addendum to Rezoning Application (Map Amendment)**

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

September 18, 2019

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SEP 19 2019

To the Planning Director and Planning Commission:

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

### **Request**

The Applicant hereby respectfully requests an amendment to the zoning map reclassifying the Property from the R-3 High Density Urban Residential zoning classification as contained within the provisions of the Codified Ordinances of Medina, Ohio (the "Code"), Chapter 1125, to the C-1 Local Commercial District zoning classification as contained within the provisions of Code Chapter 1133.

### **Description of Proposed Work**

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

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

### **Statement in Support of Rezoning**

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

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

the property zoning? The Applicant submits that a map amendment to the C-1 zoning classification is appropriate.

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

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

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

Currently, the Property is zoned R-3 High Density Urban Residential<sup>2</sup>, which permits a Single-Family Detached Dwelling as a principally permitted use, and conditionally permits the following:

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

(See Code Sections 1125.02 and .04).

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

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

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

Accordingly, the R-3 zoning classification does not substantially advance a legitimate government purpose, and the character of the Property and its location in a major commercial corridor supports a change to the C-1 zoning classification. The Property's location in a commercial corridor renders any of the uses permitted under the current zoning classification economically infeasible. It is not simply that Property is more valuable with a C-1 zoning classification, or less valuable without it. Rather, the Property is unsuitable to any of the permitted or conditionally permitted uses as currently zoned.

Moreover, the properties along the west side of South Court Street all maintain a C-1 zoning classification. The properties to the north of the Property, while all maintaining an R-3 classification, are all commercially developed. The property immediately to the south of the Property (located in Montville Township), which previously contained single-family residences until it was determined that such uses were economically infeasible, is slated to be developed as an assisted living facility. There is an existing legally, non-conforming commercial use located on the Property.

In short, this is an ideal location for uses associated with the C-1 zoning classification. This is supported by Code Section 1133.01, which states:

The C-1 Local Commercial District is established to provide for uses principally to accommodate the sale of convenience retail goods and personal services purchased frequently for daily or weekly needs. \*\*\*

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

The requested rezoning is further supported by Code Section 1125.01, which states the purpose of the R-3 zoning classification is "to encourage relatively high density residential development in areas generally adjacent to built up sections of the community or in areas of existing development of such density . . . . The development is to consist of single-family and two-family dwellings in areas served with centralized sewer and water facilities." None of the properties which maintain the R-3 zoning classification along this portion of South Court Street have developed in this fashion, nor in conformance with the R-4 zoning classification, which is the most closely related land use to that identified in the Plan.

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

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

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

### Conclusion

The current R-3 zoning classification applicable to the Property is unsuitable based on the various commercial uses surrounding the Property. Development of the Property under the R-3 zoning classification is economically infeasible, and the requested rezoning will bring the Property into conformance with the general character of this commercial corridor. In sum, there is no rational basis to continue to apply the restrictive R-3 zoning classification on the Property. Accordingly, the Applicant respectfully requests that the Property be rezoned under the C-1 zoning classification.

Legal Description

Land situated in the City of Medina, County of Medina, and State of Ohio: and being known as the whole of Medina City Lot 4640, containing 1.1778 acres to be the same more or less, but subject to all legal highways.

PPN: 028-19D-12-004

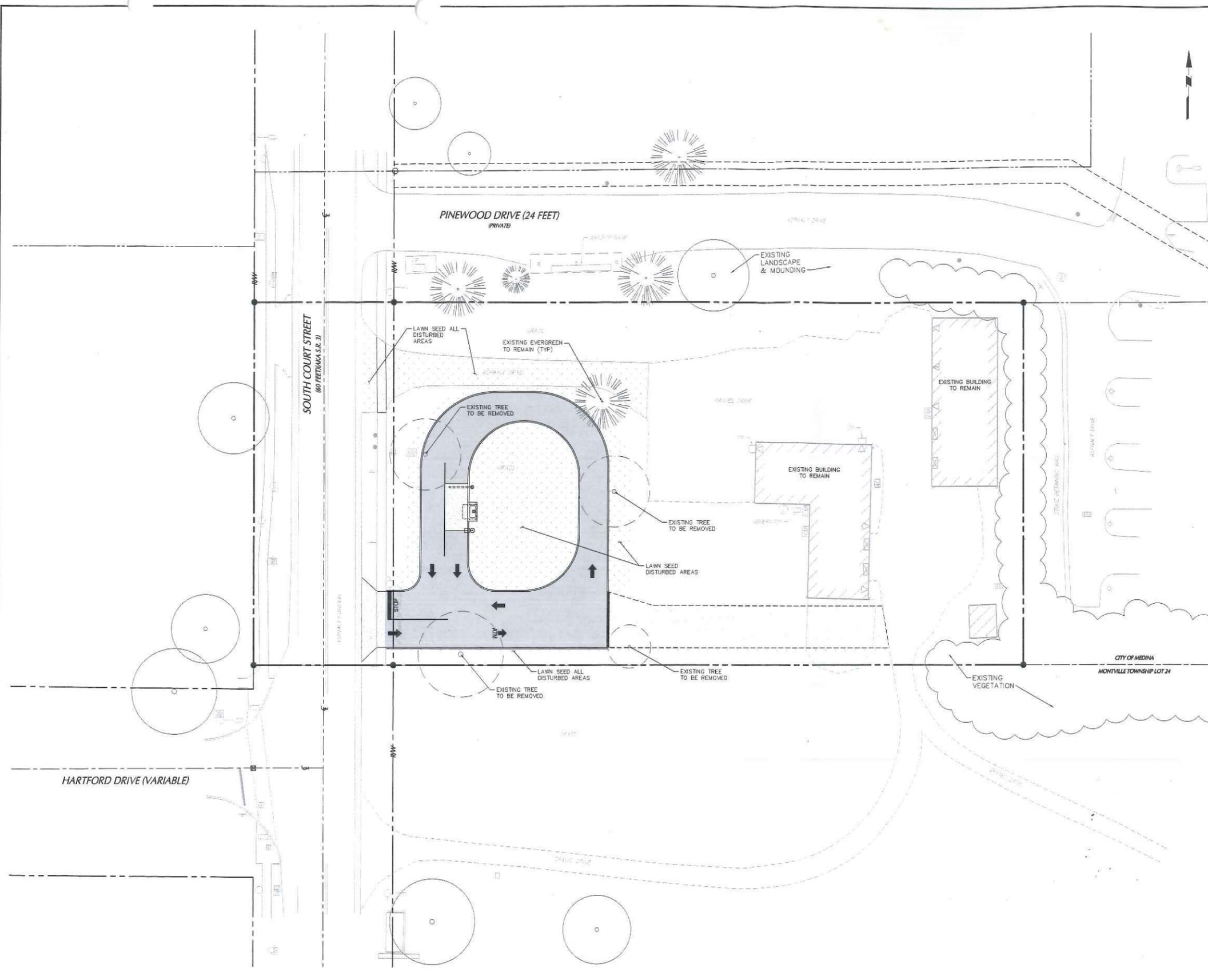
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Trillium Creek LLC – 1088 S. Court Street, Medina, Ohio 44256

Adjoining Parcels List

Permanent Parcel No.	Address	Owner
PPN: 028-19C-20-043	1063 S Court St, Medina, Ohio 44256	Mary Beth Esterburg ✓
PPN: 028-19D-12-002	1060 S. Court St, Medina, Ohio 44256	Sally F. Lee
PPN: 028-19D-12-011	7 Pinewood Drive, Medina, Ohio 44256	Bruce & Barbara Fisher
PPN: 028-19D-12-010	5 Pinewood Drive, Medina, Ohio 44256	Deborah L. Teper, Co-Trustee & Pamela Webber, Co-Trustee
PPN: 028-19D-12-009	3 Pinewood Drive, Medina, Ohio 44256	Susan L. Funk, Trustee
PPN: 028-19D-12-008	1 Pinewood Drive, Medina, Ohio 44256	Sally Ann Finefrock
PPN: 028-19C-20-044	1075 S Court St, Medina, Ohio 44256	Thomas H & Ann Lynne Naumoff ✓
PPN: 028-19D-12-014	2 Pinewood Drive, Medina, Ohio 44256	Gerard A & Kathleen M Seman ✓
PPN: 028-19D-12-015	4 Pinewood Drive, Medina, Ohio 44256	Jacob Lambert ✓
PPN: 028-19D-12-016	6 Pinewood Drive, Medina, Ohio 44256	Benjamin T. Wagner ✓
PPN: 028-19D-12-017	8 Pinewood Drive, Medina, Ohio 44256	Michael A. Steffen ✓
PPN: 030-11A-01-027	5779/5783 Wooster Pike, Medina, Ohio 44256	Trillium Creek LLC
PPN: 028-19C-20-045	1105 S Court St, Medina, Ohio 44256	Old Pheonix National Bank

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 BY: .....

**LAWN SEED NOTE**

**LAWN SEED MIX**

- PRIOR TO SEEDING, AREA IS TO BE TOPSOILED, FINE GRADED, AND RAKED OF ALL DEBRIS LARGER THAN 1" DIAMETER.
- THE FOLLOWING SEED MIX SHALL BE SOWN AT THE RATES AS DEPICTED:  
 RED FESCUE 1 1/2 LBS./1,000 SF  
 PERENNIAL RYEGRASS 1 LB./1,000 SF  
 KENTUCKY BLUEGRASS 1 1/2 LBS./1,000 SF  
 SPREADING FESCUE 1 LB./1,000 SF
- SEED MIX SHALL BE MULCHED WITH SALT HAY OR UNROTTED SMALL GRAIN STRAW AT A RATE OF 2 TONS/AC OR 90 LBS./1,000 SF
- SEEDING DATES FOR THIS MIXTURE SHALL BE AS FOLLOWS:  
 SPRING: APRIL 1 - MAY 31  
 FALL: AUGUST 15 - OCTOBER 31
- GERMINATION RATES WILL VARY AS TO TIME OF YEAR FOR SOWING. CONTRACTOR TO IRRIGATE SEEDED AREA UNTIL A STAND OF COVER IS ESTABLISHED AND ACCEPTED BY THE OWNER.



Date	Description	No.
04/18/19	CITY COMMENTS	1
REVISIONS		

SIGNATURE  
 WILLIAM P. BORON  
 REGISTERED LANDSCAPE ARCHITECT OH Lic. #541

**LANGAN**  
 Langan Engineering and Environmental Services, Inc.  
 6000 Lombardo Center, Suite 210  
 Cleveland, OH 44131  
 T: 216.328.3300 F: 216.328.3301 www.langan.com

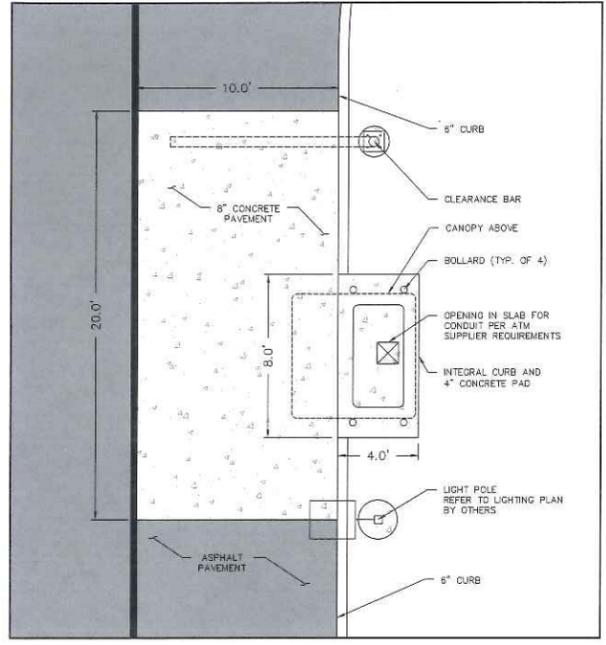
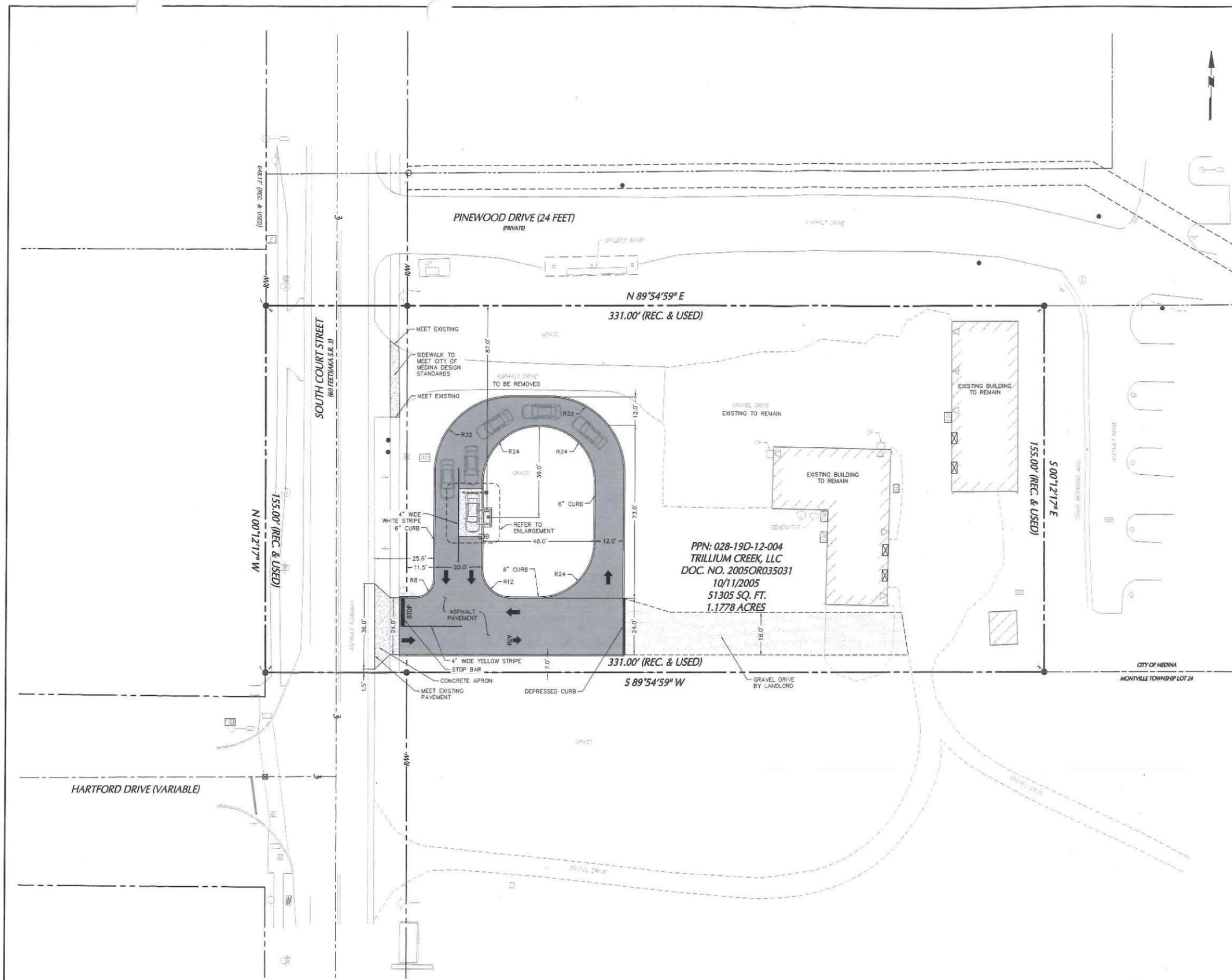
Project  
**KEYBANK  
 MEDINA SOUTH ATM**  
 CITY OF MEDINA  
 MEDINA COUNTY OHIO

Drawing Title  
**LANDSCAPE PLAN**

Project No.  
 400051201  
 Date  
 02/22/2019  
 Drawn By  
 HMG  
 Checked By  
 CW

Drawing No.  
**LP101**





ATM KIOSK PLAN ENLARGEMENT  
SCALE: 1/4" = 1'-0"

RECEIVED  
SEP 19 2019



Date	Description	No.
04/18/19	CITY COMMENTS	1
REVISIONS		

*Christopher Westbrook*  
 STATE OF OHIO  
 CHRISTOPHER WESTBROOK  
 PROFESSIONAL ENGINEER OH Lic. No. 73221

**LANGAN**  
 Langan Engineering and Environmental Services, Inc.  
 6000 Lombardo Center, Suite 210  
 Cleveland, OH 44131  
 T: 216.328.3300 F: 216.328.3301 www.langan.com

Project  
**KEYBANK  
 MEDINA SOUTH ATM**  
 CITY OF MEDINA  
 OHIO

Drawing Title  
**SITE PLAN**

Project No.  
 400051201  
 Date  
 02/22/2019  
 Drawn By  
 HMG  
 Checked By  
 CWJ

Drawing No.  
**CS101**

Current City of  
Medina Zoning Map



# Zoning District Map

Effective November 27, 2018 (Ord. 174-18)

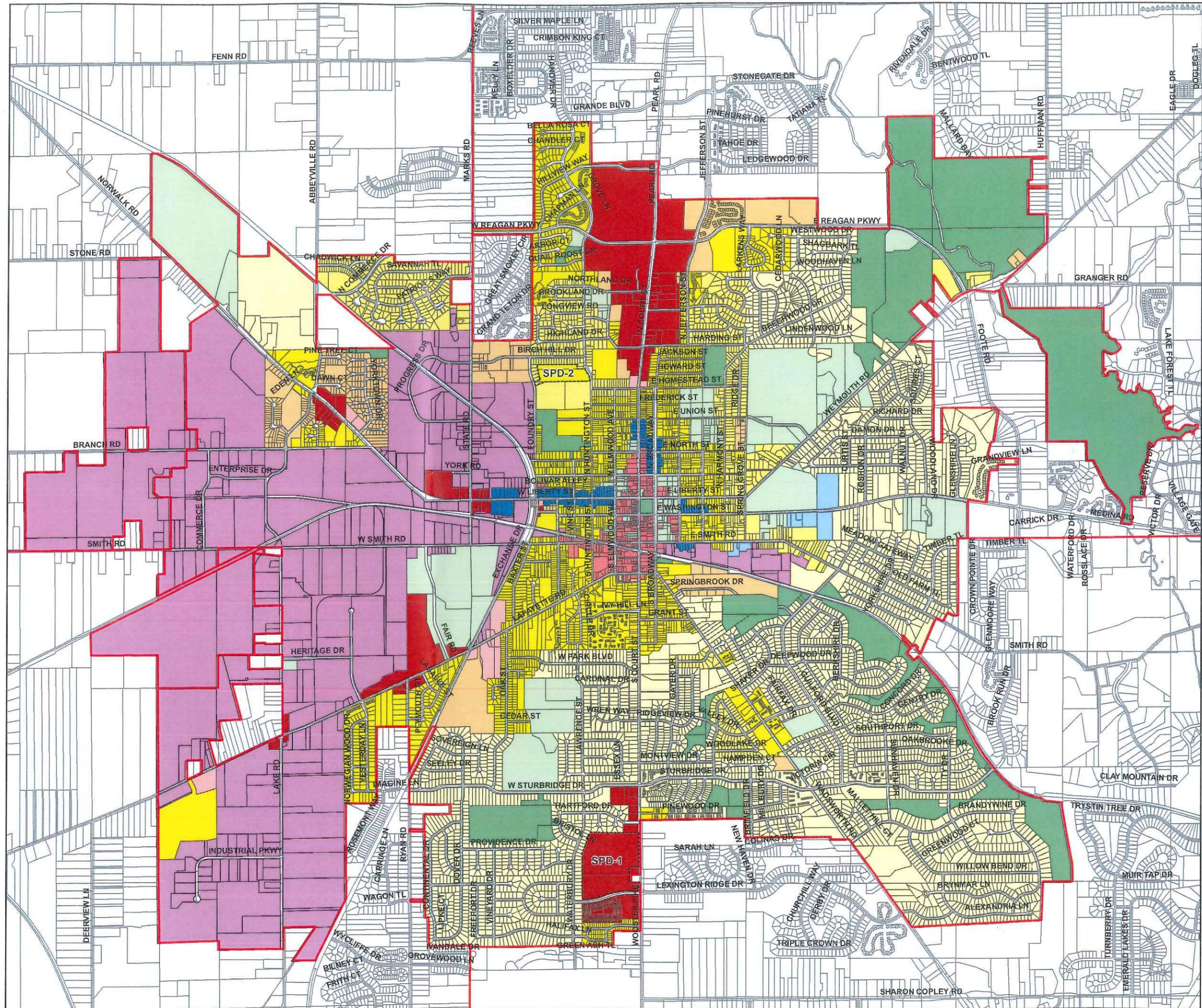
## Legend

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

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

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

Prepared by City of Medina  
 Community Development Department  
 July 22, 2019



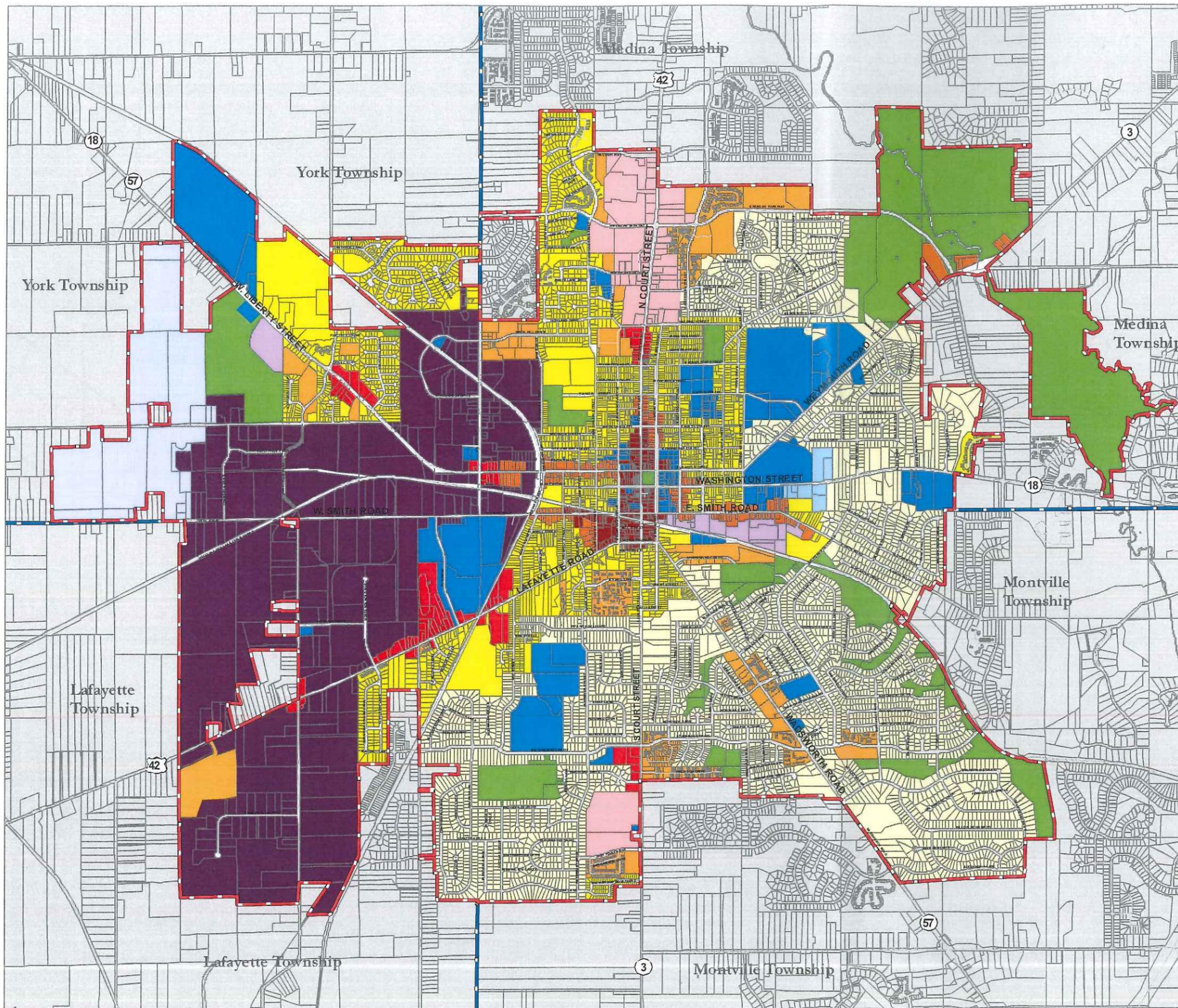
Future Land Use map  
from the City of  
Medina 2007

Comprehensive Plan  
Update and a detail of  
the subject property's  
immediate vicinity on  
the map

# Map 8 Future Land Use

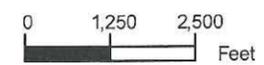
11/13/2006

City of Medina, Ohio



### Future Land Use

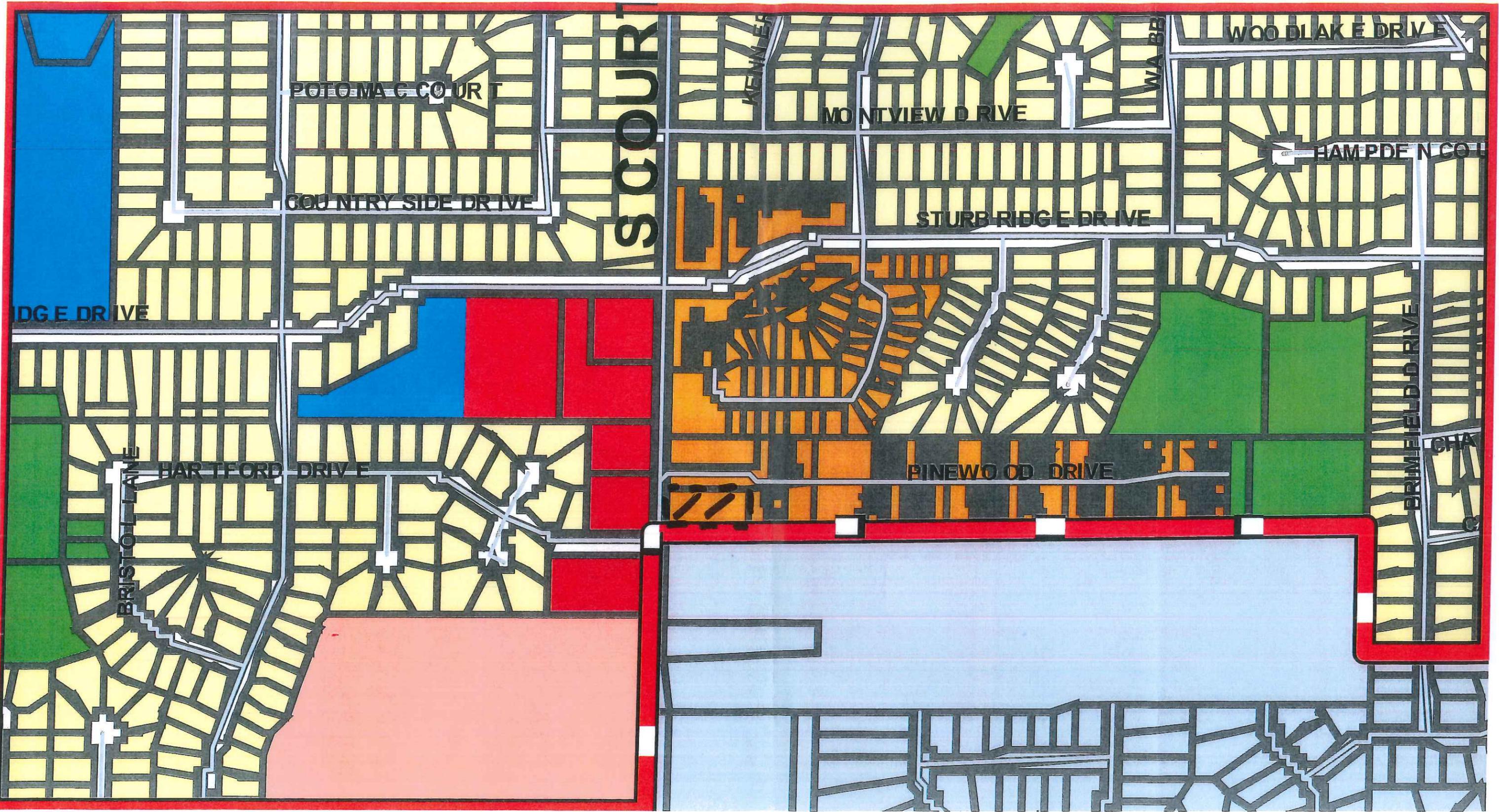
- Residential Low Density
- Residential Medium Density
- Residential High Density
- Mixed Use
- Central Business District
- Thoroughfare Commercial
- Planned Commercial
- Restricted Office
- Office/Technology
- Light Industrial
- General Industrial
- Public Facilities
- Conservation/Recreation
- Municipal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



Base Map Source: Medina County GIS, 2005  
Data Source: McKenna Associates, Incorporated, 2006.



Print date: 6/19/2007 10:41:00 AM File: C:\Projects\Ohio\Medina\Map8\_Medina\_LU\_Land.dwg



SCOUR

POTOMAC COURT

COUNTRY SIDE DRIVE

RIDGE DRIVE

HARTFORD DRIVE

BRISTOL LANE

PINWOOD DRIVE

STURBRIDGE DRIVE

MONTVIEW DRIVE

WOODLAK E DRIVE

HAMPDEN COURT

BRIMFIELD DRIVE

CHA

C-1, Local  
Commercial  
Principally Permitted  
and Conditionally  
Permitted use tables

Print

Medina, OH Code of Ordinances

**1133.02 PRINCIPALLY PERMITTED USES.**

The following uses shall be permitted in the C-1 Local Commercial District:

<b>Residential</b>	<b>Public/Semi-Public</b>	<b>Commercial</b>
• None	• None	• Convenience Retail
		• Office - Professional, Medical and Administrative
		• Personal and Professional Services
		• Other Similar Uses as Determined by the Planning Commission

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

**1133.04 CONDITIONALLY PERMITTED USES.**

The following uses shall be permitted as conditionally permitted uses in the C-1 Local Commercial District subject to the requirements of Chapter 1153 , Conditional Uses. Numerical identification after each item corresponds to specific standards in Section 1153.04 , Conditionally Permitted Use Regulations.

<b>Residential</b>	<b>Public/Semi-Public</b>	<b>Commercial</b>
• Bed and Breakfast Inn <sup>11,14</sup>	• Club, Lodge or Fraternal Organization <sup>9,11,14,25</sup>	• Bar or Tavern
• Nursing Home, Assisted Living Facility, Independent Living Facility <sup>1,2,3,5,7,9,11,14</sup>	• Conservation Use	• Child Day Care Center and Nursery <sup>2,5,9,11,14</sup>
	• Educational Institution for Higher Education	• Hospital <sup>1,2,3,5,7,9,11,14</sup>
	• Publicly Owned or Operated Governmental Facility <sup>3,7</sup>	• Motor Vehicle Filling Station with or without Convenience Retail <sup>5,7,17,29,31</sup>
	• Public Utility <sup>1,10,11</sup>	• Personal and Professional Services with Drive- Thru <sup>7,17</sup>
	• Religious Place of Worship <sup>1,3,7,11,12,14</sup>	• Research and Development Laboratory and Processing with No External Hazardous, Noxious or Offensive Conditions
	• Urban Garden	• Restaurant

(Ord. 63-16. Passed 5-9-16.)

Aerial photograph  
with City of Medina  
Zoning Districts  
overlay.

W STURBRIDGE DR

STURBRIDGE DR

NORTHFORD CT

SALEM CT

HARTFORD DR

WOOSTER PIKE

S COURT ST

C-3

C-3

R-3

PINEWOOD DR

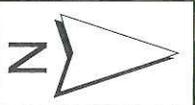
R-1

R-1

Subject Site

SPD-1

P19-19  
1088 S. Court St.  
Rezoning  
R-3 to C-1  
October 10, 2019



1 inch = 200 feet