

# City of Findlay City Planning Commission

Thursday, January 10, 2013 - 9:08 AM  
Municipal Building, Council Chambers

## Minutes

### **MEMBERS PRESENT:**

Mayor Lydia Mihalik  
Director Paul Schmelzer  
Joe Opperman  
Thom Hershey  
Grant Russel

### **STAFF ATTENDING:**

Todd Richard, Zoning Inspector  
Matt Cordonnier, HRPC Staff  
Matt Pickett, FFD  
Don Rasmussen, Law Director

### **GUESTS:**

Dan Stone, Joe Bayliff

## CALL TO ORDER

### ROLL CALL

The following members were present:

Mayor Lydia Mihalik  
Director Paul Schmelzer  
Thom Hershey  
Joe Opperman  
Grant Russel

### SWEARING IN

All those planning to give testimony were sworn in by Matt Cordonnier.

### APPROVAL OF MINUTES

The December minutes were not included in the January 2013 Planning Commission Packet. Matt Cordonnier apologized for this oversight and the minutes will be presented at the February Planning Commission Meeting.

## **NEW ITEMS**

**1. APPLICATION FOR SITE PLAN REVIEW #SP-01-2013** filed by Roman Zarazua & Ana Banales, 806 N. Main Street, Findlay, OH for reconfiguration of access and parking lot for El Restaurante Mexicano, 806 N. Main Street, Findlay, OH.

### **HRPC**

#### **General Information**

Site is located on West side of North Main St. and between Howard St and Filmore St. Currently zoned C-2 General Commercial and located in the university Overly District. The properties to the West are zoned R-3 and the properties to the North, South, East, and West are zoned C-2. This site is not located with the 100 year flood plan. The applicant is proposing to reconfigure the existing parking lot to allow for all parking and access to be on site. The proposed new layout will eliminate access to the site from the adjoining lot to the North. The landscaping buffer will be installed to prevent access between the appendix lot and the adjoining property to the North. Ingress/ egress are provided by drive cut on Main Street and at the alley on the Western side of the lot. The proposed layout creates a dead- end parking situation which is currently not allowed by the zoning code. To remedy this situation HRPC recommends the parking lot be altered to allow for a turn-around point at the end of the parking lot.

#### **Parcel History**

This site has been home to several restaurants over the years. A parking lot agreement to the North has been in existence dating back to the 1980's when the site was a Hardy's fast food establishment.

#### **Staff Analysis**

The applicant is proposing to reconfigure the existing parking lot to allow for all parking and access to be on site. The proposed new layout will eliminate access to the site from the adjoining lot to the North. The applicant shall work with the Engineering Department to insure there is space available for a car to perform a three-point turnaround exit at the dead-end parking area.

### **ENGINEERING**

We will work with applicant to make sure that the three-point turn-around is proper in the parking area. As far as water and sewer, there are no proposed changes to the existing facilities. Storm-water management, there is a slight change in the amount impervious area that is not significant enough to require detention calculations or storm water detention. Sidewalks are currently in place along North Main Street and they will remain in place.

### **FIRE PREVENTION**

No Comment

### **STAFF RECOMMENDATION**

Staff recommends approval of **Site Plan Application #SP-01-2013**

### **DISCUSSION**

Thom Hershey asked if this will affect the number of parking spots required by the code.

Matt Cordonnier stated that currently the code would require 10 spaces. The applicant is providing 30.

Joe Opperman asked how the parking spots to the North would be accessed.

Paul Schmelzer stated they would be accessed from the same drive but they are not required in the parking count. It is assumed that if the property owner to the north decided that he/she did not want that parking accessed they could do something to modify the access on his own property which would then cause the client to take some action on his own.

Dan Stone stated that the client is aware his site and parking spots could be blocked off. He intends to make that a patio area if this occurred.

Paul Schmelzer questioned if they are not blocked off; will it just continue to function as it does?

Dan Stone replied "correct".

Thom Hershey asked what the reasoning was for altering the parking.

Dan Stone replied that he wants to make this a between property owners and the existing patio space. Designated access. He is essentially making the South access self sufficient.

**MOTION:** Thom Hershey made a motion to approve **SITE PLAN REVIEW #SP-23-2012 with the following conditions:**

Contingent upon working with the engineering department to get the proper three point turn around

**2<sup>nd</sup>:** Paul Schmelzer seconded the motion.

**VOTE:** Yay (5) Nay (0) Abstain (0)

**2. SITE PLAN APPLICATION #SP-02-2013** filed by Lewis Real Properties, 1560 Brookview Trail, Findlay, OH for an industrial building for Partitions Plus, 12515 CR 99, Findlay, OH.

### **HRPC**

#### **General Information**

The applicant is submitting a site plan for a 40,000 square foot light industrial building located on 6.382 acres in Allen Township. The property is not zoned but is subject to the City of Findlay design standards because they are hooking into Findlay water and sanitary sewer. The properties surrounding the site are not zoned. The property will be accessed via a private roadway that is shared with the adjacent property owner. The project is not located in the 100 year flood plain.

#### **Parcel History**

The parcel has been used for agricultural purposes for many years.

## **Staff Analysis**

The applicant is proposing to construct a 40,000 square foot light industrial building. The proposed project would be considered light industrial if it was located in the City of Findlay, so the I-1 standards have been applied to this project.

The proposed building meets the required setbacks of the I-1 district. The dry detention basin serves both the dentist office located on the northern portion of the property and the proposed building. The basin is designed to accommodate a 100 year storm event.

The project is not required to provide a landscaping buffer but the onsite landscaping standards do apply. Parking lots with six or more spaces shall have one shrub planted per five lineal feet around the perimeter of the parking lot. A minimum of fifty percent of these planting must be evergreen and 24 inches in height at planting. (Page 148 – 1161.06.3) The proposed building is not subject to the foundation planting regulations. (Page 147 – 1161.06.02)

The proposed property is subject to outdoor storage regulations (page 160 – 1161.11.1) “All storage of raw, processed or finished materials shall be enclosed by a combination of landscaping, wall, fence, or mounding.....One shrub shall be installed for every ten feet of fence and one tree shall be installed for every fifty feet of fence”. The zoning code does not specify the type of fence but a fencing design that blocks the view of the storage would be preferred, use of a chain link fence would be discouraged. The outdoor storage surface in the I-1 district is not subject to regulations. (Page 159 – 1161.10.4 B.)

The I-1 district requires 1.1 parking spaces per employee on the largest shift. (Page 168 – 1161.11.6) The applicant has stated that 10 employees will be present at the largest shift. They are providing sixteen parking spaces which meet the required eleven parking spaces. The proposed layout creates a “dead end” parking situation, which is not currently allowed by the zoning code. (Page 166 – 1161.11.4 E.4.) To remedy this situation HRPC recommends that the parking be altered to allow for a turnaround point at the end of the parking lot. Applicant shall work with engineering department to ensure there is space available for a car to perform a three-point turn to exit the dead-end parking area.

There are no architectural standards for the I-1 district.

The proposed development is not adjacent to a residential use so the lighting standards of (Page 154 – 1161.09.4 B) do not apply. However all outdoor lighting in all zoning districts shall be shielded or arranged to reduce glare as not to interfere with the vision of neighboring properties. (Page 154 – 1161.09.4 A) Due to the isolated nature of the project one would anticipate that this would not be an issue.

## **ENGINEERING**

Access – Access is proposed to be through an existing drive at the West side of the property. This is currently a private drive and would need to have the easement secured as shown on the proposed plans. Recommend the easement width be increased to 80’ to provide sufficient R/W in the event North Blanchard Street is extended to connect to CR 99. The additional 20’ of

easement width required shall be set aside now so there is no need for condemnation or acquisition required for future R/W dedication.

Water – An 8” public waterline is proposed to follow the east and south property lines within a 15’ dedicated easement. We recommend the following additions and corrections: 1) the waterline be extended north from the southwest corner of the property 100’ +/- with a hydrant at the end of the line; 2) the proposed services for the building shall be connected on the west side of the building into the recommended line extension; and 3) the existing detention basin be reconfigured/re-graded so the entirety of the basin is outside the limits of the 15’ dedicated waterline easement. 4) If grant dollars are able to be used off-site, the waterline shall be looped back to the west to provide a redundant supply for fire protection.

Sanitary Sewer – Sanitary sewer is proposed to connect to an 8” line constructed to serve the Lewis Dental office.

Storm water Management –Detention calculations were previously submitted for the entire 6 acre parcel and will use the detention basin constructed along the east edge of the property.

Sidewalks – Currently in the county, no sidewalks required.

Recommendation: Conditional Approval of the Plan pending changes recommended for the waterline.

The following permits will be needed prior to construction of the site plan:

- Sanitary Sewer Permit
- Waterline Permit

## **FIRE PREVENTION**

- Advised to place proposed water line on east side of access road with evenly spaced hydrants. One hydrant shall be at least 100 feet from FDC (NFPA 1141). No fire hydrants exist on the property or on the south side of County Rd. 99/ County Rd. 212. Hydrants shall be installed and supplied with water prior to construction. A minimum of 2 hydrants shall be installed and once the fire resistance type rating is established, additional hydrants may need to be added (NFPA 1, 220 & 1141). The preferred method would be to loop the water line with a minimum of a 6” water main. If a dead end water line is installed, a 10” minimum shall be used due to the length of the main (NFPA 1141).
- FDC to be 2 ½ inch Siamese to accommodate Allen Twp FD. FDC head shall be changed to 5 inch Stortz w/30 degree angle if annexed into City of Findlay. Fire line supplying sprinkler system shall be a dedicated line.
- Outside notification to be a horn/strobe device working on water flow only and placed over FDC
- Area in front of FDC shall be kept clear and within an acceptable driving surface/path.
- Driving surfaces shall be capable of handling fire trucks before construction begins.
- Any electric or gas meters within driving area shall have crash protection.
- Knox box will be required if annexed into City of Findlay.

- Business shall have street address on sign (4 inch minimum size) or on building front, large enough to be visible from the road.
- Any additional plans and any variances from the submitted site plan shall be provided to Findlay Fire Prevention office in a timely fashion for review and approval.

### **STAFF RECOMMENDATION**

Staff recommends approval of **Site Plan Application #SP-02-2013**

### **DISCUSSION**

Paul Schmelzer questioned if the applicant stored raw processed or finished products outside?"

Dan Stone responded "No".

Paul Schmelzer stated he was ok with the water line being on the east side of the property as long as some of the other issues mentioned by Fire Prevention are taken care of. Does the applicant have an issue with this?

Dan Stone replied "No".

Joe Opperman asked if there is a requirement for sub-division.

Paul Schmelzer stated he was not aware of any requirements for sub-division.

Dan Stone stated that the applicant's wife Katie Lewis owns the dentist office and Mike will own the light industrial proposed.

Lydia Mihalik asked if the applicant had any questions.

Phil Rooney stated that the first comment deals with the access requirement. The applicant has a problem with the 20 foot additional easement requirement or the right away Obviously that puts a 20 foot public right-a-way in the middle of nowhere. This could be a title issue down the road not to mention you are taking property without paying for it.

Paul Schmeltzer replied "It is a right of way easement. We are not taking any property. He will retain ownership until such time that the roadway would be extended and at that time it would be dedicated".

Phil Rooney asked how that would be recorded.

Paul Schmeltzer replied "It will be recorded as a right-of-way easement".

Phil Rooney asked if the right-of-way would be made to the city.

Mr. Schmelzer responded that is correct.

Phil Rooney asked if the road is here we would be giving the property away, is that what you are saying?

Mr. Schmelzer stated the city is trying take into account some long range planning.

Phil Rooney stated that the railroad museum owns sixty feet of the proposed right-of-way and the City of Findlay will be required to pay them for that right-of-way in the future.

Paul Schmelzer stated “that it may be that we are not going to pay the railroad museum anything that is just conjecture. He also stated that if we end up having to pay for it the road may not go there. At that point the impact of the 20 foot becomes irrelevant”.

Mike Lewis asked why this issue of the easement was not brought up the first time the plans went to the Planning Commission?

Paul Schmelzer stated, “we never finished the discussion about the building in the back. What we focused on was the dentist office and that you would bring back a site plan for the manufacturing facility”.

Mike Lewis asked why this issue did not arise until they wanted to use grant funds to pay for the water line.

Paul Schmelzer stated “I don’t know anything about the timing of the grant. All I can tell you is that when I started to examine the use of the property for the manufacturing facility and how the utilities were going to be extended to it we looked at a plan that had a water line on it. And when I examined that plan, that waterline needed to be an easement so I recommended that the 20 foot easement be placed on the West line. You subsequently had a meeting with me and indicated that you did not want the water line there because of a concern that if anything happened to the water line, your business would be interrupted. So I worked with you to relocate the waterline to the east side of the property. At that point there was no mention of the 20 foot easement going away. When I saw this plan I thought it was a mistake that the 20 foot easement was eliminated from the property”.

Mike Lewis stated that was his understanding that the easement was only needed for the waterline.

Paul Schmelzer stated, “It is just a misunderstanding between us – I thought I was being clear with the intent of the easement being put there to allow for the waterline, future utilities, and roadway extension which would ultimately benefit your property. I cannot explain why you did not interpret it that way, it was my intent the whole time to look at this long-term, to make sure you didn’t put anything in an area that maybe you needed at some point in future time for right-away, to make sure your utilities were located appropriately off that easement, in case that area was extended for roadway. That was the whole purpose for where I was coming from with it.”

Matt Cordonnier commented that if the City of Findlay has a documented plan showing the future expansion of a roadway thru there, an official document of a transportation plan, then he thinks it would be perfectly normal and normal practice for anyone developing along that proposed corridor to provide easement. If the city does not have it a documented long-term plan showing planned expansion of a street through there, then he thinks it would be somewhat

difficult to ask for an easement. So part of it hinges upon what document does the city have in place for long-term plans for this.

Paul Schmelzer stated “There is a long-range plan for this showing roadway extension. Understanding Mr. Lewis’s concern I will modify my recommendations to say this, “That the site plan shall reflect the 20 foot future right-of-way on the plan. At minimum that will provide an indication to people in the planning department as well as Mr. Lewis and other property owners that may own this in the future that there could be the possibility that that road is extended thru there and they will make provisions to avoid infrastructure in those areas which would make it more difficult for a roadway to be constructed. Does that meet with your approval, Mr. Rooney?”

Mr. Rooney replied “Yes that will be acceptable”.

Thom Hershey asked “With regard to the right of way easement between the two properties, if plan shows the property line from the property to the west and from your property with a sixty foot gap in between, who currently owns that? “

Dan Stone stated that the Railroad Museum currently owns the 60 foot space and that it is a shared drive.

Thom Hershey replied “OK, that explains it.”

Matt Pickett questioned “That the discussion is that the waterline is going to be on the east side of the property, right? Why is it not going to be on the West side of the property? “

Mike Lewis explained that he has concerned about his business being disrupted if the water line needs to be serviced and that the water line on the east portion of the site was proposed to him while working with the city. The water line on the eastern side of the property could help service the adjacent area.

Matt Pickett asked “In that proposal there would be two fire hydrants on that line you are referring to, is that correct?”

Paul Schmeltzer replied “That is correct. One would be placed on the South side of 212 after they cross. I think Eric’s concern was that with the hydrant even though it is within close proximity of the property, they would still have to extend hoses across 212. So they wanted to have a hydrant on the south side and then a hydrant within 100 feet of the connection.”

Matt Pickett replied “That is correct, those hydrants are fine, but we still need hydrants within 500 feet, of each other, so that if you are between them you have 250 feet. But this proposal is a dead-end line, is that correct?”

Paul Schmeltzer replied “Correct.”

Dan Stone stated “One thing we are going to be looking at possibly having grant money to support this. If we have enough available funds to make a connection to the west of this property because to the west of this property within 600 – 700 feet is a 60 foot waterline we are looking at the possibility of connecting this whole line to a secondary loop. We have not had a chance to



see where the line is going to be located - that dictates the final cost, what is available, and how far we can take it.”

Matt Pickett replied “If the line is on the East side of the property, and it is a dead end line then the line will need to be a ten inch line. It still does not resolve the issue that there are no hydrants down that road for the dentist office. If you want the line to run on the east side of your property, you will have to bring some of it up along that access road to make hydrants available.

Paul Schmelzer stated, “you will have to extend that waterline North along the west property line where it is basically adjacent to that drive and within 100 feet of the connection which should be shown on the west side of the building.”

Matt Pickett stated, “I am only taking into account the proposed 40,000 square foot structure. I am not taking into account the dentist office. That is another square footage I am not accounting for, there may be another hydrant that has to be placed there. I don’t know what the square footage is for the dentist office. “

Dan Stone replied that is 4,700 square feet.

Paul Schmeltzer asked “So you are saying that you potentially will need another hydrant closer to the west side of the property?”

Matt Pickett replied “Correct. Not only within 100 feet of the connection of the proposed building, but also within the dentist office. I am surprised there is not even one there now. There is nothing on that side of the road.”

Paul Schmeltzer replied “Correct. That would have been probably due to the fact that there is one right across the street and there was not one recommended at the time the dentist office was planned.”

### **MOTION:**

Paul Schmelzer made a motion to approve the site plan subject to these conditions:

1. That the waterline configuration be finalized with the Engineering Department
2. That a 20 foot future right away note designation be placed along the west line of the property to the point that it meets the right away that shows 80 foot existing
3. That the fire department recommendations are met.
4. That the 3 point turn around be met in the dead end parking lot.

2<sup>nd</sup>: Joe Opperman

Further Discussion: Phil Rooney commented that the current site plan shows asphalt from just past the intersection at 99 south all the way back to the parking lot under construction. Phil Rooney wanted to go on record that the applicant objects to having to pave the entire area, as this was not brought up before.

**VOTE:** Yay (5) Nay (0) Abstain (0)

**3. APPLICATION TO RE-ESTABLISH AN INDUSTRIAL USE** filed by Ron King, King Environmental Group, 1525 Lima Avenue, Findlay, OH. The business will be building and fitting aircraft refueling equipment on commercial truck chassis.

**HRPC**

**General Information**

The applicant is requesting to re-establish an industrial use at 1525 Lima Avenue. The property is zoned C-2 and is surrounded by parcels also zoned C-2.

**Parcel History**

The parcels in this area have been rezoned several times in the last 20 years. At one time the West Park corridor was zoned both B2 and I1. The I1 properties were set away from Lima Avenue but did not follow property lines. In an effort to eliminate the split zoning the area was rezoned all to B2. Since the zoning code rewrite the property was given the zoning of C-2, the zoning most similar to B2.

**Staff Analysis**

The applicant is asking to re-establish a light industrial use that is non-conforming to the C-2 zoning. From 1980 to 2009 Dukes Transportation Services assembled airplane refueling trucks. The proposed new company would be conducting the same or very similar business. They would operate from 7:00am to 5:30pm Monday through Friday and periodically on Saturdays. The applicant states that there would be no excess noise levels generated.

**ENGINEERING**

No Comment

**FIRE PREVENTION**

No Comment

**STAFF RECOMMENDATION**

Staff recommends approval of the **Application to Re-establish an Industrial Use**

**DISCUSSION**

Thom Hershey asked, "Is this going to be a conditional use now, or are we rezoning it?"

Paul Schmelzer stated, “No, it is a conditional use. There was some minor misunderstanding of the appropriate language in the applicant’s letter. Not requesting a rezone.

Matt Cordonnier stated “that the zoning code specifically has a section that outlines the reestablishment of a non-conforming use.”

**MOTION: :**

Thom Hershey made the motion to re-establish a non-conforming use.

2<sup>nd</sup>: Paul Schmelzer

**VOTE:** Yay (5) Nay (0) Abstain (0)

**4. APPLICATION FOR CONDITIONAL USE #CU-01-2013** filed by Joseph Edinger, 123 Cherry Street to be used as a pet crematorium

**HRPC**

**General Information**

The applicant is applying for a conditional use permit to allow for the operation of a pet cremation facility. Proposed site is located at 123 Cherry Street. The property is zoned C-1.

**Parcel History**

The parcel has been used by various commercial service companies and storage.

**Staff Analysis**

The property is zoned C-1 with R-3 to the east/west, C-2 to the north, and Downtown Commercial to the west. The proposed use of a crematorium is a conditional use thus requiring review and approval by the Planning Commission. (Page 82 – 1133.03 F.) The conditional use of a crematorium states, “Crematoriums shall be located no closer than one hundred feet to any residential area.” (Page 214 – 1161.15 J.2) The following residential structures are located near the proposed site: 125 Cherry Street is 37 feet from the proposed building, 328 Clinton Street is 105 feet from the proposed building, 324 Clinton Street is 107 feet from the proposed building, 322 Clinton Street is 110 feet from the proposed building, 128 Cherry Street is 120 feet from the proposed building.

The proposed use is required to provide parking at a rate of 1 space per 325 feet. (Page 168 – 1161.11.5 E) At the time of the review I was not sure of the exact amount of square footage that would be used but we would calculate that for whatever space he is using. The entire building is 1200 square feet with a minimum requirement of 4 parking spaces. This requirement may be lessened if the entirety of the structure is not intended to be used.

**ENGINEERING**

No Comment

## **FIRE PREVENTION**

No Comment

## **STAFF RECOMMENDATION**

Staff recommends denial of **Conditional Use #CU-01-2013**

## **DISCUSSION**

Paul Schmelzer stated, "I have a couple of questions, the most important being does this body even have the power to grant this conditional use given that all the conditions required given to granting of the conditional use are not met?"

Don Rasmussen stated, "That is correct if you are talking about the distances."

Paul Schmelzer asked, "If we do not have the ability, what is his recourse.? To go to BZA?"

Don Rasmussen replied, "Yes"

Paul Schmelzer asked the applicant, "Have you had a chance to talk to any of your neighbors about your proposed use?"

Joseph Edinger stated that he had spoke with Tom Gibson who is the owner of 125 and 127 Cherry Street. He wrote me an email giving his approval to have my business there. He stated also that he had spoken with adjacent property owners.

Mr. Schmelzer stated, "I appreciate your getting in touch with them. I was also looking at your application shows that there is a section in there that talks about the proposed use or possible use and it lists human and pet remains."

Joseph Edinger stated that was just the category on the application and that he would only be cremating pet remains.

Paul Schmelzer stated, "There is also an indication on there that is marked continuous monitoring, and that is checked "no" Can you explain that, what the continuous monitoring would or would not do?"

Joseph Edinger explained that the EPA would have to approve the application and will be continuously monitoring and audit the inspections of the machinery. They are primarily monitoring the omissions from the activity. This kind of machinery has a secondary burn chamber which will reburn the pet remains.

Grant Russel asked, "So if 125 and 127 Cherry Street do not exist, then this is a permitted conditional use?"

Lydia Mihalik replied "Right. Are there any other comments, or comments from the Audience ?"

Mr. Johnson of 322 Cherry Street, a member of the audience, voiced a concern. He lives across the street. He mentioned that there are big yellow vans in the back of the building. Over the years the building has had various uses that have not been beneficial to the neighborhood. He has some concerns that the proposed use may create a smell or odor in the neighborhood.

Lydia Mihalik asked Todd if we have an issue with the storage facilities out back.

Todd Richard stated “ No, part of issue is that this property was actually zoned B-3 several years ago. With the new mapping that did not go along with what the downtown area was I think in error. So it actually, formally, is on the current map as R-3 even though we have an ordinance that changed the zoning at the time to B-3 there just was not that change over when the mapping was done. That is what appears to be. I have always treated this property as a C-3 or B-3 with the anticipation that the mapping would be corrected in some way, which at this point would have to be a consideration for BZA, which would be the position we are in today.”

Lydia Mihalik replied “OK”.

Paul Schmelzer stated, “I believe the BZA would be involved in the interpretation of the zoning district.”

Todd Richard responded, “Yes”

Matt Cordonnier stated that on our map we currently show it as R-3 which is residential.

Thom Hershey questioned “whether or not the BZA would have any say in this or not. He stated that the BZA cannot rule on any use variations. This commission is the one that rules on conditional use. Stated in the zoning codes part of that conditional is a set back or distance requirement, so if we were to say he could go to the BZA to change the requirement, then in effect they would be changing the use requirement. I would question if that was proper.”

Lydia Mihalik replied “I think you are right. I do not think the BZA can grant a use variance. “

Matt Cordonnier stated “ If he would go to BZA he would be asking for relief from the 100 foot setback. He would not be asking if the conditional use of a crematorium in the R-3 district is allowed. He is not asking for a use that is not allowed in R-3, he is asking for a use that is allowed in R-3 conditionally with provision that it meets the 100 foot set-back. So I think he would only be asking for relief from the 100 foot setback not an actual use. A use variance would be if there was no provision for that to be allowed in R-3 and he was asking for that to be an allowed in a district that in no way allows for it.”

Thom Hershey responded, “I don’t think you can go to the BZA and ask for a variance from something that you don’t have to begin with. I think the only way it would work would be if this commission would grant the conditional use on the condition that the BZA reduced the distance requirement. This commission would have to act first, otherwise there is nothing for the BZA to act on.”

Don Rasmussen replied, “I think the biggest issue is “what is the property zoned” and they do have the right to look at that and they would make the determination of the proper district because as I understand it there is no 100 foot setback in C3.”

Lydia Mihalik commented that she thought the conditional use was the same for both B3 and C3.

Don Rasmussen responded, “But without the 100 foot requirement.”

Matt Cordonnier stated that, “as a conditional use, this type of service is a conditional use in many different zoning districts, and those all refer back to the same article that states. If you are in I1 or R3, a crematorium has a requirement of 100 foot no matter what zoning district you are in.”

Todd Richards stated, “In the C-3 district it is not mentioned as a use in any form. If you look at the uses listed in the C3 district, there is a section in there called “other uses”. It is up to planning commission to determine if the proposed use is similar or is it compatible with the downtown area. I think this was the avenue this was going to take originally and that is why it was brought to the Planning Commission.”

Matt Cordonnier noted that there is a crematorium located downtown at Coldren-Crates.

Todd Richard directed a response to Thom Hershey, “Thom’s question regarding the conditional uses and if the board had the ability to hear a variance on it. He stated that if we take a different type of conditional use, let’s say a drive thru and we have a ten car stacking requirement and let us say we have a hardship that prevents ten cars from stacking into a new drive thru I think they have every right to go to the Board of Zoning Appeals to ask for some relief on that requirement without it changing the zoning map or allowing a use that in otherwise would not be allowed there. That is the difference that I see.”

Paul Schmelzer stated, “But I think Thom’s point is not that that ability exists, it is that this body has to take action to give them a condition that they have to apply a decision to. Do I understand you correctly?”

Thom Hershey stated “That is correct. I will also point out that it says it has to be 100 feet away from a residential area. And then you go on to tell us the distance from each structure. I would assume that the property line would begin the residential area. “

Matt Cordonnier stated, “that a legal determination may be needed, I think there could be arguments made for and against, if it said zoning district then I would definitely measure from the property line when they talk about a residential use there could be arguments made both whether you measure from property line to property line or from structure to structure.”

Mayor Mihalik asked again if individuals at 125 Cherry St. has been spoken to.

Grant Russel states, “Where is the relevance if 125 Cherry St. agrees, that is fine and dandy, but the next person that buys 125 Cherry St. Where is their consideration in this? I don’t know that the approval of that individual has bearing. If it was 99 feet, that would be one thing, but we are talking 37 feet.”

Lydia Mihalik responded that the individual, if we were to approve it, if BZA grants relief from that requirement, then that individual would be notified that it is going to BZA and they could come to BZA and then BZA would make that determination.

Grant Russel asked, “You had mentioned that Coldren-Crates has a crematorium. Is it located in their facility? I was just wondering about the 100 foot radius. I am trying to run through my mind if there is a residential at 100 feet, and how did that come about?”

Matt Cordonnier stated that the research was conducted was just to determine if there were similar crematoriums located within the city of Findlay. He did not do any measurements from the other crematoriums because he did not know the history, how long had they been there, if they were grandfathered in or were they newly adopted and , what codes were in effect when they were created

Mayor Mihalik stated that she did not think we get any complaints about the crematorium at Coldren-Crates, if that is your question, Grant.

Grant Russel stated that he was just concerned that someone might bring up the issue that Coldren Crates has a crematorium.

Paul Schmelzer stated, “Given the fact that there is one residence that does not meet the 100 foot requirement, I am inclined to recommend approval of the conditional use subject to the Board of Zoning Appeals granting a variance from the 100 foot rule, and the applicant will have to provide evidence to that body regarding surrounding property owners supporting your endeavor.”

Mr. Johnson asked if the Planning Commission was approving the project?

Paul Schmelzer stated, “No sir, I am saying that this body does not necessarily object to the use but he needs to go to the Board of Zoning Appeals, which is a separate entity that would have to grant him a variance from the 100 foot requirement. We just have to deal with rules that are in place. He will have to, rather than just verbally tell me that the next door neighbor supports him, that evidence will have to be proven to the Board of Zoning Appeals before they will grant him the variance. That would also be an opportunity for you to go to that same meeting and talk about your issues. Your comments are more related to the questions that I was asking with regards to the permit and what the EPA’s involvement is. Looking at that application, it appears to be very thorough, I don’t know that it is something that we are going to be involved with from a permitting standpoint as to the omissions so I understand your concern. I just have to deal with the rules that are in place.”

**MOTION: A motion was made by Thom Hershey to approve the conditional use application subject to the Board of Zoning Appeals granting relief of the distance requirement within the code.**

**2<sup>nd</sup>: Joe Opperman**

**Discussion on the Motion:**

Grant Russel asked, "Where in the code is the 100 foot defined? I was looking for it and could not find it."

Todd Richards stated that it is under the Conditional Use Section

Don Rasmussen stated, "It actually doesn't say district or use; it says residential area which is even less clear."

Todd Richards read the following, "Crematoriums shall be located no closer than 100 feet to any residential area."

Grant Russel stated, "It specifically says, crematorium, so funeral home which is on Lima Ave. is fine if it does not have a crematorium. If someone wanted to establish where that Lima Ave. funeral home is right now and they wanted to come in and say, "I want to have a funeral home there" and that would be the end result we would not have a concern if they did not have the crematorium. This would not apply."

Matt Cordonnier stated "Yes, you are correct, that is specifically for crematoriums. "

Grant Russel stated, "That's what I wanted to hear, thank you, I appreciate it.

**VOTE:** Yay (3) Nay (2) Abstain (0)

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**ADJOURNMENT**

With no further business the meeting was adjourned at 10:35 am.

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Lydia L. Mihalik  
Mayor

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Paul E. Schmelzer, P.E., P.S.  
Service-Safety Director