Planning Commission
Map Amendment
Wolny Properties
Hinckley Township

Meeting:	November 1, 2017	**Parcels:**	4
App. No.:	088-2017-MA	**Parcel ID Nos:**	017-03C-02-002, 003, 004, & 005
Owner:	Emil Wolny Properties LLC & Hinckley Land Ltd.	**Amendment:**	R-1 Residential to B-1 General Business
Applicants:	Emil Wolny Properties LLC & David Terry	**Utilities:**	Central water & sewer
		School Dist.:	Highland Local
Site Area:	3.07 acres	**Reviewer:**	Rob Henwood

EXECUTIVE SUMMARY

The subject site is located on the south side of Center Road (SR 303) east of the intersection with West 130th (see Map 1: Location Map). The applicant proposes to change the zoning district on the subject property from R-1 Residential to B-1 General Business. The proposal includes four parcels comprising 3.07 acres. Central sewer and water facilities are available.

Recommendation: APPROVAL

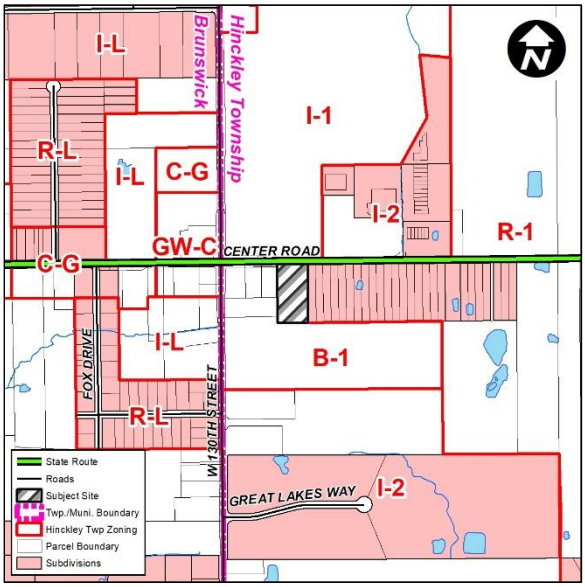
ADJACENT ZONING/LAND USE

Direction	Zoning	Land Use
North	I-1 Office/Light Industry	Aldi distribution center
East	R-1 Residential	Single-family residence, vacant, wooded
South	B-1 General Business	Parking, vacant, wooded
West	B-1 General Business	Vacant, wooded (2 parcels) Buzzard's Roost (bar), Caddy Shak (restaurant/bar)

Proposal: The applicant proposes to change the zoning district on the subject property (four parcels) from R-1 Residential to B-1 General Business.

Site Conditions: The site is vacant, with the exception of an accessory building, wooded and primarily flat (see the GIS map). All four parcels are platted sublots in the Mount Pleasant Home Sites subdivision, recorded in July of 1926. Future non-residential projects would require that the parcels be vacated from the subdivision.

Access: The site has direct frontage on Center Road (SR 303).



Map 1: Location Map

Current Zoning: The purpose of the R-1 District is to "provide for the development of low density single-family residential dwellings on subdivided lots with a minimum lot size of two (2) acres that will promote the continuation of the predominately rural character of the Township."

Permitted uses include detached single-family homes, accessory buildings and uses, and rear or back lots (Hinckley Township Zoning Resolution Section (§) 6R1.2)

Conditionally permitted uses include the following (§ 6R1.3):

- Home-Occupations: Home-Based
- Government Owned or Operated Recreation Areas
- Institutions for Human Care
- Churches and Other Places of Worship
- Educational Institutions
- Public Buildings
- Funeral Homes and Mortuaries
- Parks and Recreation Areas
- Golf Courses
- Cemeteries

The minimum lot size is 2.0 acres (§ 6R1.4).

Proposed Zoning: The stated purposes of the B-1 General Business district (§ 6B.1.) are as follows:

A. To provide in appropriate and convenient locations, sufficient areas for business activities, including the exchange of goods and services;

B. To establish use and development regulations that maintain and reinforce a traditional "town" character.

C. To establish development standards that effectively manage current and future development and maintain an acceptable transition between commercial development and surrounding rural and residential areas.

D. To provide landscaping standards which reduce the impacts between differing uses, shield parking areas, protect pedestrians from the street traffic and create an interesting and visually appealing streetscape.

E. To establish a General Business District (B-1) that provides a location for a variety of office and commercial businesses and services to meet the trade needs of the Township while maintaining the community's traditional, rural character.

Permitted uses include the following (§ 6B.3.):

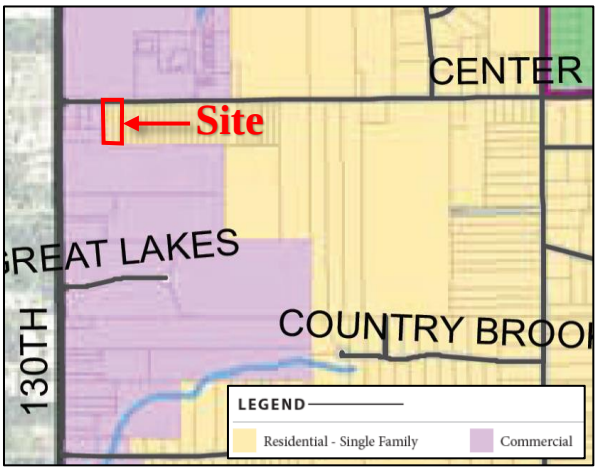
- Offices, Professional/Corporate
- Retail (less than 12,000 sq. ft.)
- Personal Services
- Banks
- Restaurants
- Funeral Homes
- Indoor Recreation

Conditionally permitted uses include the following (§ 6B.3.):

- Retail (12,000 sq. ft. or greater)
- Lawn, Garden and Nursery Sales & Service
- Drive-up or drive through windows
- Outdoor Display Associated with a permitted or conditional use
- Tavern/Bar & Night Clubs
- Automobile Service Stations
- Small Power Equipment Repair
- Churches and Other Places of Worship
- Library
- School, private or public
- Daycare Center, child or adult
- Post Office
- Assembly hall, meeting place
- Outdoor Recreation
- Hospitals, medical clinics
- Senior Citizen Residential Facilities

The minimum lot size is 30,000 square feet with a minimum lot width of 125 feet (§ 6B.3.). The maximum site coverage is 30% for buildings and 60% for buildings and parking. The minimum side yard setbacks for B-1 uses adjacent to a resident district is 100 feet.

Comprehensive Plan: The Future Land Use Map, Figure LU.10, of the 2015 Comprehensive Plan (Master Policy Plan) recommends the subject site for single-family residential use (see Map 2: Future Land Use). Objective LU.4 states that the community should "[g]row consistently with the future land use map." Action LU.4.1 states "[m]ake future development and zoning decisions that support the implementation of the Future Land Use Map."



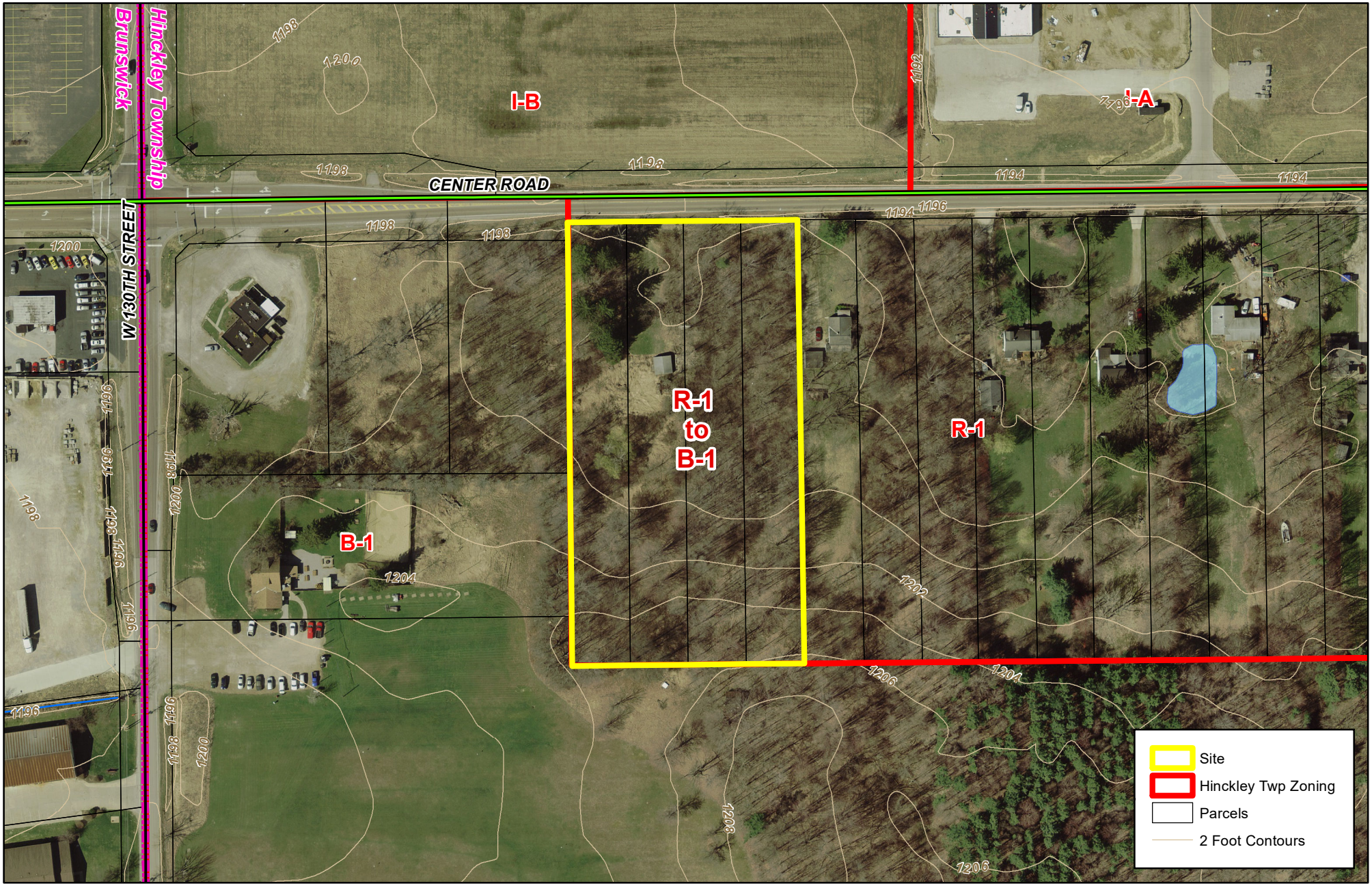
Map 2: Future Land Use

Staff Comments:

1. The site is currently zoned R-1 Residential and the site is primarily vacant and wooded.
2. The current surrounding land uses are; single family residential to the east, vacant and commercial uses (the Buzzard's Roost and Caddy Shak) to the south and west, and light industrial to the north across Center Road (Aldi distribution center).
3. Utilities are available to the site.
4. The Master Policy Plan recommends the subject site for single-family residential use.
5. The majority of the current land zoned B-1 in the township is not developed or used for business or commercial uses.
6. The subject site is surrounded by non-residential uses on three sides.
7. The subject site fronts on Center Road and is located in an area that is advantageous for business and commercial uses.
8. While the permitted and conditionally permitted uses are not entirely compatible with the adjoining residential land use, a 100 foot side yard setback is required when adjacent to a residential district. Significant screening is also required when B-1 uses are adjacent to residential uses.

Recommendation: The Department of Planning Services recommends that the Medina County Planning Commission **APPROVE** the zoning map amendment from R-1 Residential to B-1 General Business.

R:\wp\planning\map_amend\hinckley\2017\hinckley_twp_ma_088-2017-ma.docx



Prepared by:
Department of Planning Services
124 W. Washington St., Suite B-A Medina, OH 44256 (330) 722-9219 Fax: (330) 764-8456
Visit us on the web at www.planning.co.medina.oh.us

Wolny Properties
Map Amendment
App. 088-2017-MA
Hinckley Township

Meeting Date: 11/1/2017
Hearing Date: 11/2/2017
Amendment: R-1 to B-1
Area: 3.07 acres

1 inch = 150 feet
0 22.5 45 90 135 180 225
Feet

Planning Commission
App. No. 089-2017-TA

Zoning Text Amendment

Hinckley Township

Meeting:	November 1, 2017
Applicant:	Hinckley Township Zoning Commission (HTZC)
Hearing:	November 2, 2017 (Zoning Commission)
Amendments:	Numerous house-keeping edits and substantial amendments including: • Edit § 3.2 definition of Senior Citizen Residential facility. • New Section (§) 4.17 Medicinal Marijuana under General Regulations. • Change text from "33,000 square feet" to "32,670 square feet (0.75 acres)" in §s 6R1.4(J)(1)a., 6R2.1(A), and 6R2.4(A). • Change text re. required documentation for Conservation Developments; § 6R1.8(A)(3)c. • Add text re. "Height Exceptions" to maximum height of structures in Industrial districts, §s 6I1.4(F) and 6I1.5(F). • Remove references to Appendices; § 13.2, Chapter 14, Appendix List.
Reviewer:	Rob Henwood
Recommendation:	**APPROVAL**

Proposal: In a letter dated October 5, 2017 William Spellman, Chairman of the HTZC requested a review of the proposed amendments to the Hinckley Township Zoning Resolution. The HTZC proposes numerous house-keeping edits throughout the Zoning Resolution to improve the clarity of the document. These edits include standardization of references to the Zoning Commission, Board of Zoning Appeals, Trustees, Zoning Inspector and Medina County Agencies. The updated references will read throughout the Zoning Regulations as follows:

- Township Zoning Commission
- Township Board of Zoning Appeals
- Township Board of Trustees
- Township Zoning Inspector
- Medina County Planning Commissions
- Medina County Health Department
- Medina County Engineer
- Medina County Soil and Water
- Medina County Prosecutor
- Township Legal Advisor

Other house-keeping or clerical edits include correcting misspelled or incorrectly used words (put to puts, ships to shops, form to from, and principle to principal), adding and/or removing capitalization, bold text areas, and adding commas as punctuation and in numbers (i.e. 1,200).

Substantial changes to the text are included below. New text is underlined, text to be deleted is shown as ~~strikethrough~~.

SECTION 3.2 DEFINITIONS

Senior Citizen Residential Facility: A facility consisting of three or more dwelling units, the occupancy of which is limited to ~~persons sixty (60) years of age or older~~senior citizens in compliance with the Fair Housing Act, as amended.

SECTION 4.17 MEDICINAL MARIJUANA

Medicinal Marijuana cultivators, processors, and dispensaries are prohibited from being located in all zoning districts of Hinckley Township.

Staff Comments:

1. On June 8, 2016, Gov. John Kasich signed into law House Bill 523, the so called Medical Marijuana Control Bill, which became effective September 8, 2016.
2. § 512.21 of the Ohio revised Code (ORC) was amended to add a new section (D) as follows:

   > *Nothing in this section prohibits a Township Zoning Commission, Board of Township Trustees, or Board of Zoning Appeals from regulating the location of medical marijuana cultivators, processors, or retail dispensaries or from prohibiting such cultivators, processors, or dispensaries from being located in the unincorporated territory of the township.*

3. In anticipation of questions that would arise pertaining to the authority of townships under this law, former Prosecuting Attorney Dean Holman sent a letter to the townships dated August 25, 2016 discussing, "… additional authority granted by the legislature dealing with the cultivation, processing and dispensing of medical marijuana" as well as how the law will affect township employment practices, (see attached August 25, 2016 letter.)
   a. The letter stated that if townships do nothing, their current zoning codes, "… will allow the cultivation of medical marijuana as agriculture, and the location of processing and dispensing facilities within the township."
   b. To prevent such a result, former Prosecutor Holman's letter states that, "… a zoning change will be required following the normal zoning [amendment] process."
   c. The letter also points out that, "In addition to ORC § 512.21, newly enacted ORC § 3796.29 confirms the authority of the Board of Township Trustees to adopt a resolution that would prohibit or limit the number of cultivators, processors, or retail dispensaries licensed under that chapter within the unincorporated territory of the township."
3. A second letter clarifying the two methods that townships can take to control medical marijuana activities was sent by former Prosecutor Holman on September 15, 2016 (see attached September 15, 2016 letter). The two methods discussed include:
   a. "Resolution to Prohibit or Limit: A township is authorized under ORC § 3796.29 to adopt a resolution to prohibit, or limit the number of cultivators, processors, or retail dispensaries licensed under ORC Chapter 3796 within the unincorporated territory of the township." A sample resolution was enclosed with the letter (see attached sample resolution).
   b. "Modify Zoning Resolution to Prohibit or Limit: Townships have separate authority under ORC § 519.21 to prohibit or regulate the location of medical marijuana cultivators, processors, or retail dispensaries in the unincorporated territory of the township." In order to exercise this authority the township will need to modify its zoning resolution through the regular zoning amendment procedure."
   c. The Prosecutor's Office recommends that if a Township chooses to regulate or prohibit medical marijuana activities, the Township should incorporate those limits using both methods.

4. The subject text amendment proposed by Hinckley Township will prohibit the location of medical marijuana activities through an amendment to their zoning resolution.

SECTION 6R1: SINGLE-FAMILY RESIDENTIAL DISTRICT

J. Sub-Standards Lots

1. Lots of record as of August 21, 1970… may be built on provided they… meet the following provisions:
   a. **Minimum Lot Area:** ~~33,000~~ 32,670 square feet (0.75 acres)

Sub-Section 6R1.8: PROJECT REVIEW PROCEDURES FOR CONSERVATION DEVELOPMENT

A. Submission of General Development Plan: The applicant shall submit a General Development Plan application to the Township Zoning Inspector. …The application and documentation shall include, but not necessarily be limited to:

3. An outline of the method and legal structure that will be used to perpetually preserve the required restricted open space which indicates:
   c. Management ~~responsibilities~~plan…

SECTION 6R2: SINGLE-FAMILY RESIDENTIAL DISTRICT (~~33,000~~32,670 SQ FT Lots)

Sub-Section 6R2.1 PURPOSE

A. The R-2 District is established to provide single-family residential development with a minimum lot size of ~~33,000~~32,670 square feet.

Sub-Section 6R2.4 AREA, YARD AND HEIGHT REGULATIONS

A. Minimum Lot Area: ~~33,000~~32,670 square feet.

SECTION 6I1: OFFICE/LIGHT INDUSTRIAL DISTRICT

Sub- Section 6I1.4 AREA, SETBACK AND HEIGHT REQUIREMENTS

F. Maximum Height of Buildings or Structures: 35 feet with the exception of any HVAC equipment shall not exceed 10 (ten) feet above the maximum building height, be open or mechanically self-contained with no livable space or housing accommodations.

SECTION 6I2: LIGHT MANUFACTURING/INDUSTRIAL DISTRICT

Sub-Section 6I2.5 AREA, SETBACK, & HEIGHT REQUIREMENTS

F. Maximum Height of Buildings or Structures: 35 feet with the exception of any HVAC equipment shall not exceed 10 (ten) feet above the maximum building height, be open or mechanically self-contained with no livable space or housing accommodations.

SECTION 13.2 DUTIES & POWERS OF THE BOARD OF ZONING APPEALS
… The procedures for Amendments or Supplements to the Zoning Resolution shall be conducted pursuant to Chapter 519 of the Ohio Revised Code.

~~See Appendix A for Procedure.~~

CHAPTER 14: AMENDMENTS

The procedures for Amendments or Supplements to the Zoning Resolution shall be conducted pursuant to Chapter 519 of the Ohio Revised Code.

~~See Appendix B for Procedure.~~

APPENDIX

~~APPENDIX LIST~~

~~Appendix 1 (CH 13): Board of Zoning Appeals~~
~~ORC § 519.14~~

~~Appendix 2 (CH 14): Zoning Amendments~~
~~ORC § 519.12~~

~~Noted Appendix information will follow the Appendix Cover page. Administrative Guidelines will be added as well.~~

Recommendation: Planning Services staff recommends the Planning Commission **APPROVE** the proposed amendments to the Hinckley Township Zoning Resolution.

Attachments: August 25, 2016 letter from former Prosecutor
September 15, 2016 letter from former Prosecutor
Sample resolution

R:\wp\planning\Text_Amend\hinckley\2017\hinckley_089-2017-ta.docx

Office of the Prosecuting Attorney
Medina County, Ohio

72 Public Square • Medina, OH 44256

Phone: 330-723-9536 • **Toll-Free:** 844-722-3800 • **Fax:** 330-723-9532
Support Enforcement: 330-723-9546 • **Juvenile Division:** 330-764-8399
Victim Assistance: 330-723-9537

DEAN HOLMAN
Prosecuting Attorney

August 25, 2016

To All Township Trustees and
Zoning Commission Members

Re: Township Zoning and Employment Authority and Medical Marijuana

Dear Sir or Madam:

While the Ohio Township Association has provided legislative alerts covering substitute House Bill 523, the so called Medical Marijuana Control Bill, we felt that it would be beneficial to emphasize additional authority granted by that legislation dealing with its cultivation, processing and dispensing, as well as how the new law will effect township employment practices.

ZONING

Section 512.21 of the Revised Code was amended to add a new section (D) which provides:

> NOTHING IN THIS SECTION PROHIBITS A TOWNSHIP ZONING COMMISSION, BOARD OF TOWNSHIP TRUSTEES, OR BOARD OF ZONING APPEALS FROM REGULATING THE LOCATION OF MEDICAL MARIJUANA CULTIVATORS, PROCESSORS, OR RETAIL DISPENSORIES OR FROM PROHIBITING SUCH CULTIVATORS, PROCESSORS, OR DISPENSORIES FROM BEING LOCATED IN THE UNINCORPORATED TERRITORY OF THE TOWNSHIP.

Simply put, if you do nothing, your zoning code as now written will allow the cultivation of medical marijuana as agriculture, and the location of processing and dispensing facilities within the township. To prevent such a result, a zoning change will be required following the normal zoning process. While state licensure for cultivators, processors and distributors is required, and the law grants the Department of Commerce for example, 240 days to establish

effective date, September 8th, 2016, those townships desiring to eliminate, or control cultivation, distribution and processing, must still act expediently. In addition to 512.21, newly enacted section 3796.29 confirms the authority of the Board of Township Trustees to adopt a resolution that would prohibit, or to limit the number of cultivators, processors or retail dispensaries licensed under that chapter within the unincorporated territory of the township.

We would also point out that even a cultivator to whom a license is granted by the state, does not have authority to cultivate medical marijuana for personal, family or household use or on public land, including a state park. In addition, there is currently a restriction on medical marijuana cultivators, processors, retail dispensaries, or laboratories that test medical marijuana, restricting them from being located within 500 feet of the boundaries of a parcel of real estate having situated on a school, church, public library, public playground, or public park.

EMPLOYMENT PRACTICES

Nothing in the amended law requires the following:

1. An employer to permit or accommodate an employees' use, possession, or distribution of medical marijuana;
2. Prohibit an employer from refusing to hire, discharging, disciplining, or otherwise taking adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment because of that persons use, possession, or distribution of medical marijuana;
3. Prohibit an employer from establishing and enforcing a drug testing policy, drug free workplace policy, or zero tolerance drug policy;
4. Interferes with any federal restriction on employment;
5. Permits a person to commence a cause of action against an employer for refusing to hire, discharging, disciplining, or discriminating, retaliating or otherwise taking an adverse employment action against a person with respect to hire, tenure, terms, conditions, or privileges of employment relating to medical marijuana;
6. Effects the authority of the administrator of workers' compensation to grant rebates or discounts on premium rates to employers that participate in a drug free workplace program established in accordance with rules adopted by the administrator under Chapter 4123.

A person who is discharged from employment because of that person's use of medical marijuana shall be considered to have been discharged for just cause for the purpose of unemployment compensation if the person's use of medical marijuana was in violation of employer's drug free workplace policy, zero tolerance policy or other formal program or policy regarding the use of medical marijuana.

If upon review of the above, you have any questions or would like to discuss any of the issues further, please do not hesitate to contact the office.

Very truly yours,

DEAN HOLMAN
Medina County Prosecutor

DH:bms

Office of the Prosecuting Attorney
Medina County, Ohio

72 Public Square • Medina, OH 44256

Phone: 330-723-9536 • **Toll-Free:** 844-722-3800 • **Fax:** 330-723-9532
Support Enforcement: 330-723-9546 • **Juvenile Division:** 330-764-8399
Victim Assistance: 330-723-9537

DEAN HOLMAN
Prosecuting Attorney

September 15, 2016

To All Township Trustees and
Zoning Commission Members

Re: Township Regulation of Medical Marijuana

Dear Sir or Madam:

Since my August 25, 2016 letter my office has received a number of questions related to a township's authority to prohibit and/or restrict medical marijuana cultivation, processing and retail sale. To be clear, there are two avenues a township can take in controlling these activities:

1. Resolution to Prohibit or Limit: A township is authorized under R.C. § 3796.29 to adopt a resolution to prohibit, or limit the number of, cultivators, processors, or retail dispensaries licensed under R.C. Chapter 3796 within the unincorporated territory of the township. Enclosed with this letter is a sample resolution our office has prepared for townships to exercise the authority granted in R.C. § 3796.29.

2. Modify Zoning Resolution to Prohibit or Limit: Townships have separate authority under R.C. § 519.21 to prohibit or regulate the location of medical marijuana cultivators, processors, or retail dispensaries in the unincorporated territory of the township. In order to exercise this authority the township will need to modify its zoning resolution through the regular zoning amendment procedure under R.C. chapter 519.

Each board of township trustees will need to determine how extensively it wishes to limit cultivation, processing and retail sale of medical marijuana in its jurisdiction. Exercise of authority under R.C. § 3796.29 through adoption of the enclosed resolution can function as a moratorium on these activities to allow your review. The resolution can then be modified or left in place permanently if you opt to prohibit the activities entirely.

If your township ultimately chooses to either prohibit or regulate medical marijuana cultivation, processing and/or dispensing in the unincorporated areas of the township our office recommends those limits be incorporated into both a resolution adopted under R.C. § 3739.29 and into your zoning resolution. Adoption of zoning regulations will require an amendment to

your resolution and this will be somewhat different for each township based on the structure of your zoning resolution and the nature of the regulations you decide to adopt. If you choose to prohibit these activities from locating anywhere in the township you could add the following language in an appropriate spot in your zoning resolution:

> *Medical marijuana cultivators, processors, and dispensaries are prohibited from being located in the unincorporated territory of _____ Township.*

Your township also has the option of limiting these operations to certain districts or making them conditionally permitted, etc. Regulations of this sort will require a more detailed analysis of your zoning resolution and development of additional regulatory language. We will be pleased to assist you in formulating and/or reviewing proposed zoning regulations.

If you have any questions or comments, please contact me at (330) 723-9536. Thank you for your consideration in this matter.

Very truly yours,

DEAN HOLMAN
Medina County Prosecutor

The Board of Trustees of _____ Township, Ohio, met in regular session on _____, 2017, commencing at _____ p.m., at _____, _____, _____, Ohio, with the following members present:

_____
_____
_____

_____ moved for the adoption of the following Resolution, seconded by _____:

RESOLUTION NO. 17-____

A RESOLUTION TO PROHIBIT LICENSING OF MEDICAL MARIJUANA CULTIVATORS, PROCESSORS AND RETAIL DISPENSARIES IN _____ TOWNSHIP

WHEREAS, the legislature of the State of Ohio has adopted legislation that provides for medical marijuana to be cultivated, processed, and sold with a license obtained under Chapter 3796 of the Ohio Revised Code (R.C.); and

WHEREAS, R.C. § 3796.29 permits a Board of Township Trustees to adopt a resolution to prohibit, or limit the number of, marijuana cultivators, processors, and dispensaries licensed within the unincorporated territory of the township; and

WHEREAS, _____ Township wishes to prohibit the cultivation, processing, and retail sale of medical marijuana within the unincorporated territory of the township.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of _____ Township, Medina County, Ohio, two-thirds of all members elected thereto concurring that:

Section 1. The Trustees of _____ Township hereby prohibit licensing the cultivation, processing, and retail sale of medical marijuana within the unincorporated territory of the township pursuant to Subsection 3796.29 of the Ohio Revised Code.

Section 2. The Fiscal Officer is hereby authorized and directed to mail a certified copy of this resolution to the Ohio Department of Commerce.

Upon roll call on the adoption of the Resolution, the vote was as follows:

_____ _____
_____ _____
_____ _____

Adopted the _____ day of _____, 2017

_____
_____, Fiscal Officer
_____ Township
Medina County, Ohio

CLERK'S CERTIFICATION

The State of Ohio, Medina County, ss.

I, _____, Fiscal Officer of _____ Township do hereby certify that the foregoing is taken and copied from the Record of the Proceedings of said meeting; that the same has been compared by me with the Resolution on said Record and that it is a true and correct copy thereof.

Witness my signature this ____ day of _____, 2017

_____
Fiscal Officer, _____ Township
Medina County, Ohio