

FORM NO. 21

APPLICATION FOR A ZONING AMENDMENT

RUSSELL TOWNSHIP

O.R.C. SECTION 519.12 (A)

The undersigned owner(s) or lessee(s) of the following legally described real property hereby request the adoption of the following zoning amendment to the Russell Township Zoning Resolution.

THIS APPLICATION SHALL BE COMPLETED BY THE APPLICANT.

- A. Name of Applicant: 306 Music, LLC
Address of Applicant: 100 7th Avenue, Suite 150, Chardon, Ohio 44024
Telephone Number of Applicant: (440) 285-2242
Fax Number of Applicant: (440) 285-9423
E-mail Address of Applicant: dmarkowitz@tddlaw.com
- B. Address(es) and PPN(s) of the lot(s): 15594 Chillicothe Road, Russell Twp., OH (PPN 26-101500),
15564 Chillicothe Road, Russell Twp., OH (PPN 26-046400), Chillicothe Road, Russell Twp., OH (PPN 26-046500)
- C. Describe the present use of the lot(s): Cell tower on one parcel and the other two parcels are vacant.
- D. Describe the present zoning classification of the lot(s): C-S Commercial & Services
- E. Provide the text of the proposed amendment: (use strike-through on any existing text to be deleted and highlight proposed text) Map changed from Commercial & Services to Limited Business
- F. What is the proposed zoning district classification? (if applicable) L-B Limited Business
- G. Attach a copy of the deed(s) of record with a legal description for the lot(s) included in the proposed amendment. The applicant shall be the record title owner of the lot or an executed lease agreement for the affected lot shall be provided and written evidence submitted that the lessee has the owner's consent to make application. See Attachment "G".
- H. Attach a map, drawn to scale, with a north arrow, showing the boundaries and dimensions (in feet) of the lot(s). See Attachment "H".
- I. Attach a copy of the official township zoning map with the area proposed to be changed fully delineated and the proposed zoning district designation shown thereon, if applicable. See Attachment "I".
- J. Attach a statement relative to the reason(s) for the proposed amendment and how it relates to the township land use plan. See Attachment "J".

- K. A site plan detailing existing and proposed buildings, structures, and uses on the affected lot(s) and documenting the provision and location(s) of sewage treatment and water supply systems. Not applicable.
- L. Provide a list of the addresses and PPN's from the county auditor's current tax list of all owners of property within and contiguous and directly across the road from the area proposed to be rezoned or redistricted, if the proposed amendment intends to rezone or redistrict ten (10) or fewer parcels of land as listed on the county auditor's current tax list. See Attachment "L".

I hereby certify that all of the information supplied in this application and attachments hereto is true and correct to the best of my knowledge, information and belief.

I hereby acknowledge that I understand that the penalty for falsification is imprisonment for not more than six (6) months, or a fine of not more than one thousand dollars (\$1,000), or both.

Dale Mackowitz
Applicant's Signature

Print Name: DALE MACKOWITZ, MANAGER

4-21-16
Date

FOR OFFICIAL USE ONLY

Application or Amendment Number: 2016-6

Date Application Received: April 25, 2016

Date of Submission to County Planning Commission: April 28, 2016

Date of Public Hearing: May 25, 2016

Dates, time and place of public examination: 5/12/16 thru 5/25/16 9am - 4pm Russell Administration Building

Date of Notice to Property Owners: _____

Date of Notice in Newspaper: May 12, 2016 Chagrin Valley Times
(provide name of newspaper)

Date of Submission to Board of Township Trustees: _____

Amount of Fee Paid: \$ 200

I hereby acknowledge the receipt of this application for a zoning amendment this 28th day of April, 20 16.

Diana Steffen
Signature of Chairman or Secretary of
Township Zoning Commission

Print Name: DIANA STEFFEN

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS

LAWYERS TITLE INS. CORP.
CH - 0508032

That MELODY PLAZA, INC., an Ohio Corporation, the Grantor, who claims title by or through instrument recorded in Volume 929, Page 354, Geauga County Recorder's Office, for the consideration of Ten Dollars (\$10.00), received to the full satisfaction of 306 MUSIC, LLC, an Ohio Limited Liability Company, the Grantee, whose tax mailing address will be 100 7TH Avenue, Suite 150, Chardon, Ohio 44024-1079, does give, grant, bargain, sell and convey unto the said Grantee, its successors and assigns, the following described premises, situated in the Township of Russell, County of Geauga, and State of Ohio:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

200500733163
Filed for Record in
GEAUGA COUNTY, OHIO
MARY MARGARET MCBRIDE
12-28-2005 At 01:45 PM.
DEED 36.00
OR Book 1783 Page 2343 - 2345

TO HAVE AND TO HOLD the above granted and bargained premises, with the appurtenances thereunto belonging, unto the said Grantee, its successors and assigns forever.

And the said Grantor, for itself and its successors and assigns, hereby covenants with the said Grantee, its successors and assigns, that said Grantor is the true and lawful owner of said premises, and is well seized of the same in fee simple, and has good right and full power to bargain, sell and convey the same in the manner aforesaid, and that the same are free and clear of all liens, charges and encumbrances, except (i) restrictions, reservations and easements of record, as shall have been approved by Buyer as provided for in Subparagraph 3(c) of the Purchase and Sale Agreement dated November 29, 2005 between Grantor and Grantee, zoning and building ordinances, taxes and assessments, both general and special, which are a lien but not yet due and payable and all legal highways, and any other Permitted Exceptions as defined in the aforementioned Purchase and Sale Agreement, and further, that said Grantor will warrant and defend the same against all claims of all persons whatsoever, except as hereinbefore provided.

REAL PROPERTY TRANSFER TAX
TRANSFERRED AND PAID 26-046400
26-046500
26-101500

DEC 28 2005

Fee \$ 100.00 x 4
Tracy A. Jamison, County Auditor

By: Saul B. Smith

IN WITNESS WHEREOF, said Melody Plaza, Inc. has hereunto set its hand the

7th day of December, 2005.

MELODY PLAZA, INC.

By: [Signature]
Harry W. Caplan, its President

The State of Ohio
Cuyahoga County } ss:

Before me, a Notary Public, in and for said County and State, personally appeared MELODY PLAZA, INC., an Ohio Corporation, by Harry W. Caplan, its President, who acknowledged that he did sign the foregoing instrument and the same is his free act and deed.

In testimony whereof, I have hereunto set my hand and official seal at Cleveland, Ohio, this 7th day of December, 2005.



[Signature]
NOTARY PUBLIC

NANCY JEAN RHOADES
Notary Public, State of Ohio
My Commission Expires Mar. 7, 2006

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WARRANTY DEED

MELODY PLAZA, INC.
TO
306 MUSIC, LLC
Dated, , 2005

County of ss
State of Ohio

Received for Record on the
day of 2005
at o'clock M.
and Recorded 2005 in
Deed Book Page

COUNTY RECORDER
This instrument prepared by:
Date H. Markowitz
100 7th Avenue, Suite 150
Chardon, OH 44024
(440) 285-2242

EXHIBIT "A"

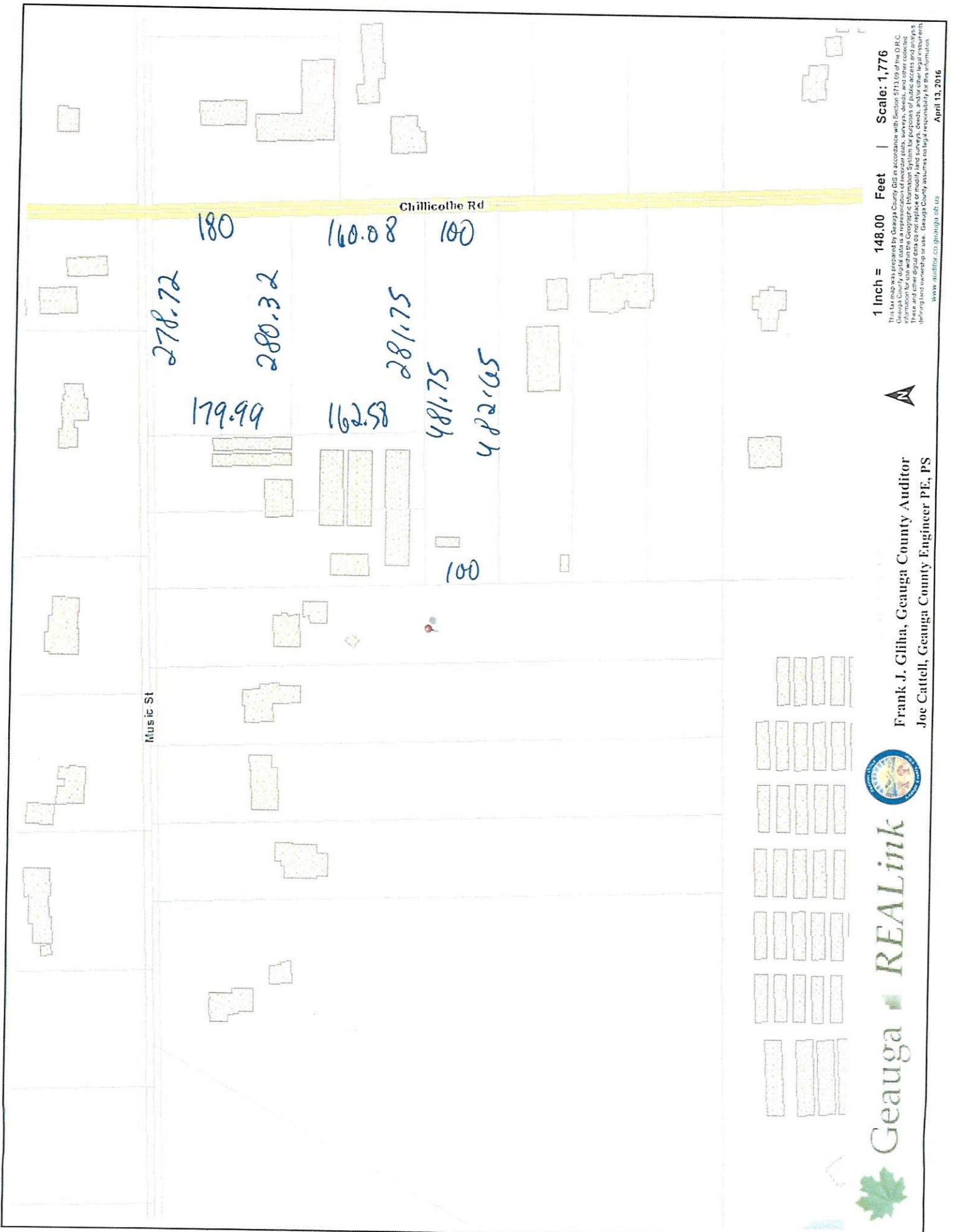
Russell, County of Geauga, situated in the Township of Russell, County of Geauga and State of Ohio:
PARCEL ONE: Situated in the Township of Russell, County of Geauga and State of Ohio and known as being part of Original Lot No. 11, Tract 3 in said Township and bounded and described as follows: Beginning at an iron monument at the point of intersection of the centerline of Chillicothe Road, 50 feet wide, and the centerline of Walters Road, 60 feet wide; Thence S. 3 degrees 29' 40" W. 180 feet along said centerline of Chillicothe Road to a point, thence N. 85 degrees 59' 50" W. 280.32 feet parallel with said centerline of Walters Road to a point; thence N. 4 degrees 00' 10" E. 179.99 feet to a point in said centerline of Walters Road, thence S. 85 degrees 59' 50" E. 278.72 feet along said centerline of Walters Road to the Place of beginning, containing 1.155 acres of land and further known as being the northerly part of Sublot No. 5 in Alvin S. Trimman's Pine Tree Acres Miniature Estate Subdivision NO. 2, according to a survey by Robert H. Krause, Registered Ohio Surveyor No. 2885, March 1954, be the same more or less, but subject to all legal highways.

PARCEL TWO: Situated in the Township of Russell, County of Geauga and State of Ohio and known as being part of Original Lot No. 11, Tract No. 3 in said Township and bounded and described as follows: Beginning at a point in the centerline of Chillicothe Road, 50 feet wide, distant S. 3 degrees 29' 40" W. 180.00 feet therein from its point of intersection with the centerline of Walters Road, 60 feet wide; Thence N. 85 degrees 59' 50" W. 280.32 feet parallel with the said centerline of Walters Road to a point; thence S. 4 degrees 00' 10" E. 162.58 feet to a point; thence S. 86 degrees 30' 20" E. 281.75 feet to a point in said centerline of Chillicothe Road. Thence N. 3 degrees 29' 40" E. 160.08 feet along said centerline of Chillicothe Road to the place of beginning, containing 1.041 acres of land and further known as being the Southerly part of Sublot No. 5 in Alvin S. Trimman's Pine Tree Acres Miniature Estates Subdivision No. 2 according to a survey by Robert H. Krause, Sr., Registered Surveyor No. 2885, in May 1951, be the same more or less, but subject to all legal highways.

PARCEL THREE: Situated in the Township of Russell, County of Geauga and State of Ohio and known as being part of Original Lot No. 11, Tract 3 in said Township and bounded and described as follows: Beginning at a point in the centerline of Chillicothe Road, 50 feet wide, distant S. 3 degrees 29' 40" W. 340.08 feet from an iron pin at the point of intersection of the centerlines of Chillicothe Road and Walters Road, 60 feet wide; thence S. 3 degrees 29' 40" W. 100.00 feet to a point; thence N. 86 degrees 30' 20" W., 482.65 feet to an iron pin; thence N. 4 degrees 00' 10" E. 100.00 feet to an iron pin; thence S. 86 degrees 30' 20" E. 481.75 feet to the place of beginning, containing 1.107 acres of land and further known as being Sublot No. 4 in Alvin S. Trimman's Pine Tree Acres Miniature Estates Subdivision No. 2 according to a survey by Robert H. Krause, Registered Ohio Surveyor No. 2885, in May 1951, be the same more or less, but subject to all legal highways.
be the same more or less, but subject to all legal highways.

Reviewed by RK W
Date 12-28-05
GEAUGA COUNTY AUDITOR

ATTACHMENT "H"



1 Inch = 148.00 Feet | Scale: 1,776

This map was prepared by Georgia County GIS in accordance with Section 5713.09 of the O.C.G. Georgia County GIS uses aerial photography, satellite imagery, and other collected information for use with the Geographic Information System. Georgia County GIS does not warrant, and is not responsible for, the accuracy, reliability, or completeness of these data. These and other digital data do not replace or modify any land surveys, deeds, and/or other legal instruments. Georgia County assumes no legal responsibility for this information. www.auditor.ga.gov/ga_sit_us



Frank J. Gliha, Georgia County Auditor
 Joe Cattell, Georgia County Engineer PE, PS



Geauga REALink

April 13, 2016

ATTACHMENT "J"

Applicant is requesting rezoning from the C-S Commercial & Services District to the L-B Limited Business District. Applicant's property is located at the southwest corner of the intersection of Music Street and State Route 306. The intersection has a flashing yellow-red light for traffic control. The northeast corner of the intersection was rezoned a number of years ago to the L-B District to permit Patti Landscaping to operate and expand a commercial landscaping business.

The property immediately to the south of Applicant on State Route 306, although zoned for the C-S Commercial & Service District now has a landscape operation. The property to the west of Applicant is utilized for a nursery business.

Applicant and its predecessor have been trying to develop or sell the property for more than two decades and have been unable to do so based on the current zoning. The property has been vacant for over 50 years, other than a cell tower is located on the southwest corner of the southerly parcel.

Applicant submits that the property is more appropriately zoned for the L-B Limited Business District which permits some of the same uses in the C-S Commercial District, discourages retail, but also allows offices and shops for contractors including builders and related trades, landscapers, building and landscape maintenance and repair.

With the abandoned propane facility to the north on the other side of Music Street, the building contractors and landscapers to the south, the auto repair business to the southeast and the landscaping business to the northeast, the only interested buyers for the property have been landscapers and contractors involved in construction. With the lack of public sanitary sewers, the opportunity to use the property for the permitted C-S uses has been severely restricted and a recent interested party to acquire Applicant's property, for a veterinarian office, withdrew from purchase based on the lack of public sewer and the cost involved in installing an on-site system for a veterinary office. The same consideration would not apply to a landscape designer or a building contractor who would have less demand (and cost) upon an on-site septic system than a veterinarian use.

Other possible uses for a viable development of the property could include those conditional uses set forth in the L-B Limited Business District such as an office which involves storage and/or delivery of goods or merchandise to customers or other persons. Likewise a child daycare center could be a viable use although it will have a similar on-site sewage system cost consideration that could be a barrier to development. Daycare is not permitted in the C-S District.

The Land Use Guide Plan 2015 ("Plan") was created by the Township after the Trustees selected a committee of residents and Township officials in 1993 to update the Plan.

Applicant's request is in conformance with the Plan for a number of reasons. The Township would like to maintain a rural atmosphere. Allowing a landscape business to operate, particularly with the opportunity to enhance the landscaping on site, such as provided by Patti's Landscaping will be consistent with the Plan. A significant amount of the land would be retained for green space, another quality that the majority of residents preferred be promoted in the Zoning Code.

One of the Plan goals was to maintain an environmentally based community with on-site water supply and sewage treatment designed and installed to protect groundwater quality and quantity. If the property were rezoned, it most likely will be developed for a landscaping operation which would be in conformity with Goal 1 on Page 15 of the Plan. The landscape business would also provide limited personal services and retail sales facilities, which is Goal 4 of the Land Use Plan, since the landscape business would primarily serve offsite properties and reduce traffic to the property. The rezoning would also encourage open space rural design in commercially zoned areas so that a business operation similar to Patti's could be conducted on Applicant's property (Objective 4-b).

The site is not known to have hydric soils, streams or rivers or significant areas of wetlands as shown on Figure 3 and Figure 4 on Pages 44 and 46 of the Plan.

The rezoning would also promote the goal in the Crossroads Commercial and Service Areas and encourage rural traditional small town commercial atmosphere rather than a strip mall look. Allowing the slight revision in permitted and conditional uses from the Commercial Services District to the L-B Limited District would allow the type of uses to avoid a retail strip mall look. (See Page 73 of the Plan.)

The rezoning would be in conformity with the purpose clause set forth in Section 5.10 of the Zoning Code to permit specified non-retail and low impact business uses and other carefully mitigated uses in a manner compatible with abutting zones according to the regulations set forth in that section. There are no residences immediately in the vicinity of Applicant's property. The change would be consistent with the rezoning that occurred on the Patti Landscaping property at the northeast corner of the intersection of Music Street and State Route 306, and will be compatible with existing uses in the immediate area where landscaping and nursery operations are taking place now. Applicant's 3+ acres are more than sufficient to meet the requirements set forth in Section 5.10 for yard and buffering requirements.

ATTACHMENT "L"

**ADDRESSES AND PPN'S OF ALL OWNERS OF PROPERTY WITHIN AND
CONTIGUOUS AND DIRECTLY ACROSS THE ROAD FROM THE AREA
PROPOSED TO BE REZONED**

<u>PARCEL NUMBER</u>	<u>LOCATION ADDRESS</u>	<u>MAILING ADDRESS</u>
26-121000	John P. Steel, Trustee 15602 Chillicothe Road Chagrin Falls, Ohio 44022	John P. Steel, Trustee 600 Hemlock Road Chagrin Falls, Ohio 44022
26-151600	Ronald R. Richardson 8449 Music Street Chagrin Falls, Ohio 44022	Ronald R. Richardson 8449 Music Street Chagrin Falls, Ohio 44022
26-122140	Patricia C. Artino, Trustee 8463 Music Street Chagrin Falls, Ohio 44022	Patricia C. Artino, Trustee 8463 Music Street Chagrin Falls, Ohio 44022
26-122130	Patricia C. Artino, Trustee 8463 Music Street Chagrin Falls, Ohio 44022	Patricia C. Artino, Trustee 8463 Music Street Chagrin Falls, Ohio 44022
26-164900	Ren Ochiai 8472 Music Street Chagrin Falls, Ohio 44022	Ren Ochiai 8472 Music Street Chagrin Falls, Ohio 44022
26-061900	GBR Family LLC & 15536 Chillicothe Road Chagrin Falls, Ohio 44022	GBR Family LLC c/o National Realty 3 Manhattanville Road Purchase, NY 10577
26-148880	Thomas W. Sloe 15565 Chillicothe Road Chagrin Falls, Ohio 44022	Thomas W. Sloe 15565 Chillicothe Road Chagrin Falls, Ohio 44022
26-157800	Thomas W. Sloe 15605 Chillicothe Road Chagrin Falls, Ohio 44022	Thomas W. Sloe 15565 Chillicothe Road Chagrin Falls, Ohio 44022