

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER**

**PUBLIC ASSEMBLY ROOM
2ND FLOOR CITY-COUNTY BUILDING
1:00 P.M.**

STAFF REPORTS FOR OCTOBER 9, 2014

**These reports do not in any way commit the Hearing Examiner
to approve or disapprove any petition filed before it.**

Any decision of the Hearing Examiner may be appealed to the full Metropolitan Development Commission, subject to deadlines prescribed by the Metropolitan Development Commission, rules of procedure. Please contact the Current Planning staff, 327-5155, within the first or second day after the hearing, to determine the appropriate appeal procedures.

| PETITION NO. | PETITION ADDRESS AND LOCATION | PAGE |
|-------------------------------|---|-------------|
| EXPEDITED PETITIONS: | | |
| 2014-ZON-057 | 5142 WEST 10TH STREET WAYNE TOWNSHIP, CD #14 | 2 |
| 2014-CZN-828 2014-CVR-828 | 2829 MADISON AVENUE CENTER TOWNSHIP, CD#19 | 7 |
| CONTINUED PETITIONS: | | |
| 2014-MOD-016*** | 2130 WINTER AVENUE CENTER TOWNSHIP, CD #9 | 15 |
| 2014-ZON-055 | 1330 WEST SOUTHPORT ROAD PERRY TOWNSHIP, CD #22 | 18 |
| NEW PETITIONS: | | |
| 2014-CZN-829* 2014-CVR-829 | 6051 (Filed as 6000) MADISON AVENUE PERRY TOWNSHIP, CD #24 | 29 |

*Automatic Continuance ** Continuance Requested *** Withdrawal or Dismissal Requested

STAFF REPORT

Department of Metropolitan Development Division of Planning

Current Planning Section

Case Number: 2014-ZON-057
Address: 5142 West 10th Street (Approximate address), Town of Speedway
Location: Wayne Township, Council District # 14
Petitioner: Speedway Community Development Corporation, by Ian Nicolini
Request: Rezoning of 0.55 acre from the C-3 District to the D-5 Classification to provide for residential uses.

RECOMMENDATIONS

Staff recommends approval of this request.

SUMMARY OF ISSUES

The following issues were considered in formulating the recommendation:

LAND USE

- ◇ The subject site, zoned C-3, is currently unimproved. The proposed rezoning from C-3 to D-5 would allow for residential development on the subject site.
- ◇ The Comprehensive Plan recommends Community Commercial use for this site. Community commercial uses are identified as a wide range of low-intensity retail commercial and office uses catering to the surrounding neighborhood. The Comprehensive Plan also recommends community commercial uses for the adjacent parcel west of the subject site, currently improved with a gas station and convenience store, as well as all properties south of the subject site. Adjacent properties to the north and west are improved with single-family dwellings and recommended for residential development of over 15 units per acre.
- ◇ The proposed rezoning and use of the subject site would not meet the specific land use recommendation of the Comprehensive Plan. Staff would note that commercial uses are common in the broader area surrounding the subject site, generally at the intersection of Lynhurst Drive and West 10th Street, west of the subject site, and along the south side of West 10th Street. However, the subject site is on the corner of a block, which is developed solely with single-family residential structures.
- ◇ Aerial images indicate the use of the subject site as farmland, dating as early as 1937. Subsequent aerial images indicate as many as three dwellings on the subject site, with the last dwelling removed prior to 1986. Petition 71-Z-184 rezoned the subject site from D-5 to C-3 to permit commercial uses, despite a negative Staff recommendation and opposition from adjacent property owners. Petition 83-SV-1, a variance to provide for a restaurant with liquor sales and carry-out food, was denied. The site has remained undeveloped, though intermittently used for outdoor storage and landscape materials.

(Continued)

STAFF REPORT 2014-ZON-057 (Continued)

◇ In Staff’s opinion, the proposed development of the subject site, with residential uses, would have a positive impact to adjacent properties and would restore the original use of the subject site.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-3 Undeveloped commercial lot

SURROUNDING ZONING AND LAND USE

| | | |
|---------|-------------------|--|
| North - | D-5 | Single-family dwellings |
| South - | SU-34, I-2-U, D-7 | Commercial, social hall and multi-family dwellings |
| East - | D-5 | Single-family dwellings |
| West - | C-3/D-5 | Gasoline station/single-family dwellings |

COMPREHENSIVE LAND USE PLAN Recommends community commercial use.

THOROUGHFARE PLAN 10th Street is indicated as a primary arterial on the Official Thoroughfare Plan, with a 120-foot existing and 140-foot proposed right-of-way.

ZONING HISTORY

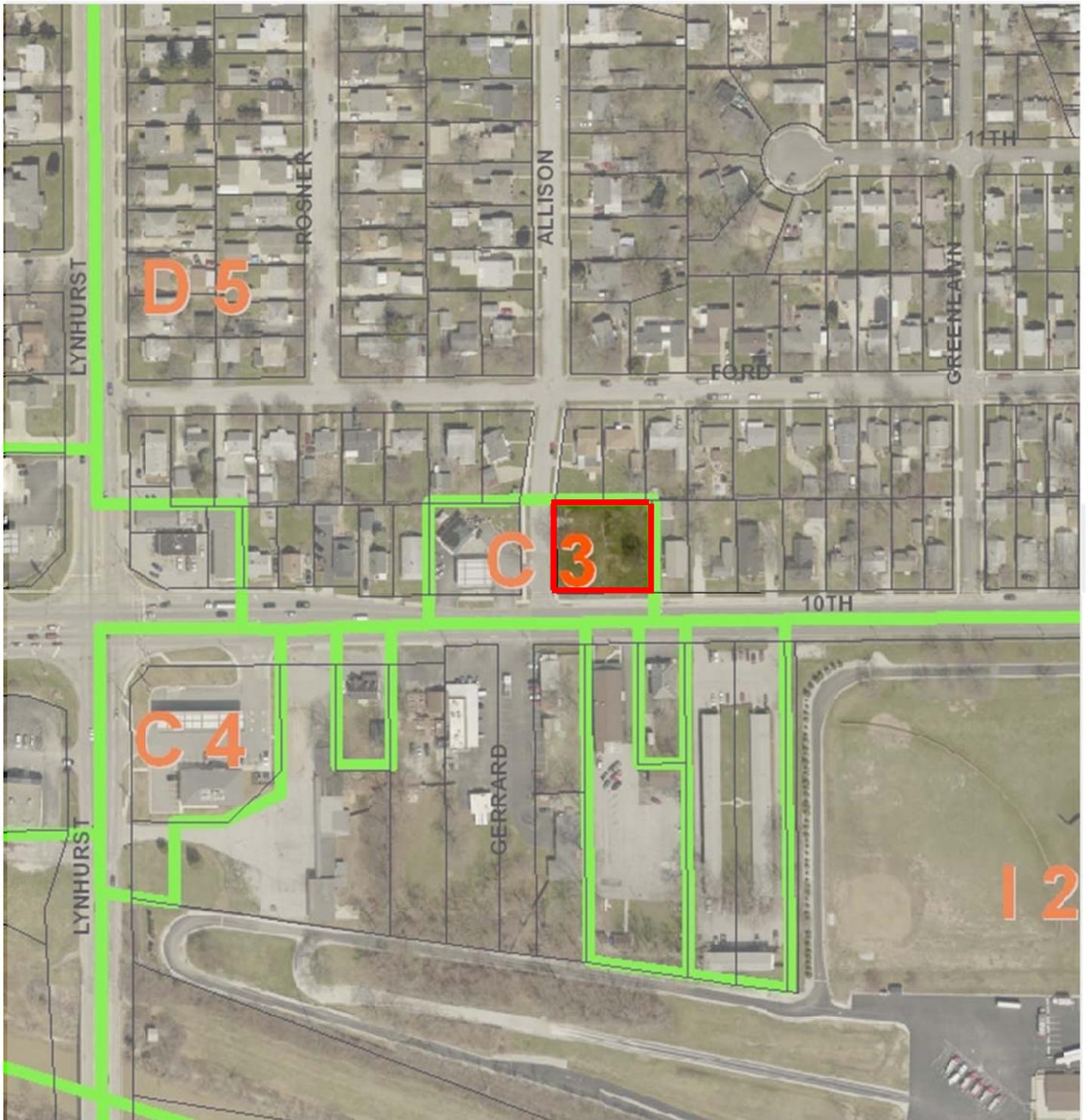
83-SV-1; 5142 West 10th Street (subject site), Variance of development standards to permit the erection of a restaurant, with alcohol and carry-out food service, **denied**.

71-Z-184; 5142 West 10th Street (subject site), Rezoning of 0.539 acre from the D-5 District to the C-3 District to allow for commercial uses, **granted**.

95-Z-237; 5139 West 10th Street (south of site), Rezoning of 0.83 acre from the I-2-U district to the SU-34 classification to allow for an addition to an existing lodge, **granted**.

JAS *****

2014-ZON-057; Location Map



2014-ZON-057; Photographs (Subject Site)



Subject site looking northeast from the intersection of Allison and West 10th Street



Subject site looking north towards single-family dwellings



Looking southwest from NE corner of site



Looking southeast from subject site

2014-ZON-057; Photographs (Adjacent Properties)



Adjacent dwellings north of subject site, zoned D-5



Adjacent commercial west of subject site



Adjacent dwellings east of subject site



Adjacent commercial south of site

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2014-CZN-828 / 2014-CVR-828
Address: 2829 Madison Avenue (Approximate Addresses)
Location: Center Township, Council District #19
Petitioner: TCT Three, by Craig E. Von Deylen
Request: Rezoning of 4.48 acres from the C-5 district to the D-10 classification to provide for four, three-story multi-family buildings, with 144 total units.
Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a multi-family development, with a floor area ratio of 0.7036 and an open space ratio of 1.067 (maximum floor area ratio of 0.60 and minimum open space ratio of 1.18 for dwellings less than four stories).

RECOMMENDATIONS

Staff **recommends approval** of this rezoning request.

Staff **recommends approval** of the variance petition, subject substantial compliance with the site plan, file-dated September 5, 2014 and the following condition:

Evidence of an agreement between all parties associated with the Access Easement Agreement, recorded under instrument number 2001-0026372, regarding the continued use, relocation or abandonment of said access easement shall be submitted to the Administrator prior to the issuance of an Improvement Location Permit (ILP).

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

LAND USE

- ◇ This request would provide for a rezoning of 4.48 acres from the D-5 district to the D-10 classification to provide for multi-family development. The subject site contained a commercial strip development until it was demolished in 2007. The site has been vacant since. The site plan submitted shows four, three-story multi-family residential buildings, with 144 total units.

(Continued)

STAFF REPORT 2014-CZN/CVR-828 (Continued)

- ◇ The proposed use would not be consistent with the Concord Community Plan, which recommends Commercial Retail and Services for the subject site. However, the property has been vacant for a number of years. It is a large property with few development constraints, but still has remained undeveloped for seven years. Additionally, there is a large amount of vacant commercially zoned properties in this portion of Madison Avenue, providing evidence of the lack of demand for commercial development or redevelopment in the area. The proposed use would be a good alternative to the recommendation of the plan given the points above. Also, the addition of residential units to the area would be beneficial to the remaining nearby commercial uses.
- ◇ The site is also within the Madison Avenue Economic Development Area and the Development Plan, adopted as part of that 2013 designation, recommends a mixed-use corridor to spread economic viability over several categories of markets.

VARIANCES

- ◇ The multi-family ratio standards variances would generally relate to reduced open space with the project. While technically, there would be a minor deviation in the amount of open space, significant outdoor amenities would be proposed, including a community garden, a garden shelter, an orchard, outdoor grilling area, public art and a playground. Additionally, this site is within a ¼ mile, a reasonable walking distance, of Garfield Park. Therefore, the minor deviation is supportable.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE C-5 Vacant

SURROUNDING ZONING AND LAND USE

| | | |
|---------|-----|--------------------------|
| North - | C-5 | Commercial |
| South - | C-5 | Commercial |
| East - | D-8 | Multi-family residential |
| West - | C-5 | Commercial |

NEIGHBORHOOD PLAN This site is located within the boundaries of the Concord Community Plan, which proposes Commercial Retail and Services for the site.

THOROUGHFARE PLAN The Official Thoroughfare Plan indicates that Madison Avenue is a primary arterial, with an 85-foot right-of-way existing and a 140-foot right-of-way proposed.

ZONING HISTORY

2003-ZON-014; 2915 Madison Avenue, requests a rezoning from the D-8 District to the C-5 classification to legally establish a restaurant, **approved.**

(Continued)

STAFF REPORT 2014-CZN/CVR-828 (Continued)

2001-ZON-059; 2715 Madison Avenue, requests a rezoning from the C-5 and D-8 District to the C-5 classification, approved.

LA



1. Subject Site frontage



2. Subject Site



3. Adjacent to south



4. Adjacent to west



5. Adjacent to northeast



6. Adjacent to east



7. Rear of subject site



8. Northern property line looking west

So. MA.



- Community Garden
- Garden Shelter
- Orchard
- Outdoor Grilling
- Playground

Features

- LEED Silver Equivalent
- Public art
- Edible Landscape
- 144 Units
- 24 Studios
- 48 One Bedrooms
- 60 Two Bedrooms
- 12 Three Bedrooms



blackline

RECEIVED

SEP 03 2014

METROPOLITAN DEVELOPMENT

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2014-MOD-016
Address: 2130 Winter Avenue (approximate addresses)
Location: Center Township, Council District # 9
Petitioner: Indy R & E LLC
Request: Modification of the commitments to Modify Commitment Four of 2007-APP-151, Instrument #2007-0171217 (previously Commitment Five of 2003-ZON-840, Instrument #2004-0207595) and the commitments for 2010-MOD-013 to permit unlimited outdoor storage (outdoor storage of heavy equipment prohibited, outdoor storage limited to 50% of gross floor area).

The petitioner's representative has requested a continuance of this petition from the September 25, 2014 hearing to the October 9, 2014 hearing in order to discuss issues with Staff and remonstrators.

Staff anticipates that this petition will be **withdrawn**.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-S Commercial-industrial center

SURROUNDING ZONING AND LAND USE

| | |
|--------------|----------------------------|
| North - C-S | Industrial |
| South - I-3U | Undeveloped and Industrial |
| East - C-S | Undeveloped |
| West - C-S | Industrial |

NEIGHBORHOOD PLAN AREA

This site is located within the boundaries of the *Martindale-Brightwood Neighborhood Plan*, which recommends commercial office, retail and service uses.

THOROUGHFARE PLAN

This portion of North Keystone Avenue is indicated on the Official Thoroughfare Plan as a primary arterial, with a 60-foot right-of-way existing and a 60-foot right-of-way proposed.

FLOODWAY/FLOODWAY FRINGE

This site is not located in the floodway or floodway fringe.

SITE PLAN AMENDED SITE PLAN

File-dated August 26, 2014
File-dated September 16, 2014

(Continued)

STAFF REPORT 2014-MOD-016 (Continued)

ZONING HISTORY

2012-ZON-069; 2330 and 2510 Enterprise Park Drive, requests a rezoning of 8.174 acres, from the C-S District, to the C-S classification to provide for the inside maintenance and repair of trucks and trailers and the outside storage of trucks and trailers, in addition to the uses permitted by 2002-ZON-837 and 2010-MOD-013, **approved**.

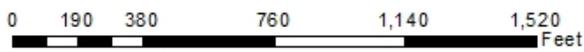
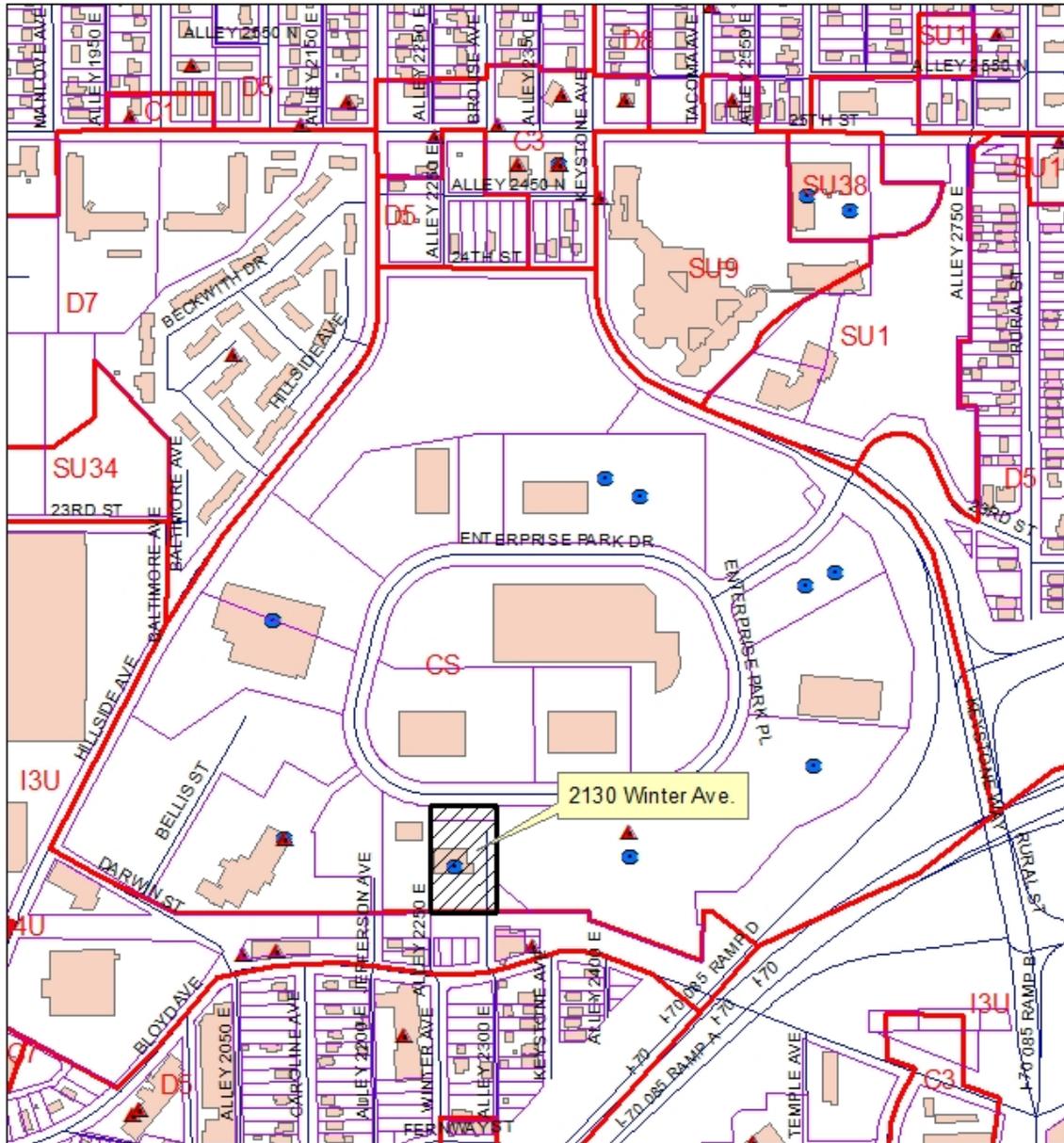
2010-MOD-013; 2330, 2345 and 2355 Enterprise Park Place and 2501 Enterprise Park Drive, requests a Modification of Commitments, related to petition 2007-APP-151 and 2003-ZON-840 to modify Item Two (2) of Attachment "B" of Commitment One of Instrument Number 2007-0171217 of 2007-APP-151 to permit I-1 and I-2 uses on Lots 4, 5, 6 and 7 (2345 and 2355 Enterprise Park Place) of Block "E" and to permit outside storage of materials on those lots, subject to Administrative Approval, to terminate Commitment Three of Instrument Number 2007-0171216 of 2007-APP-151 of sidewalk along Keystone Avenue, to modify Items One (1) of Attachment "B" of 2003-ZON-840 (Instrument # 2004-0190699) and 2007-APP-151 (Instrument # 2007-0171217) to provide for I-1-U and C-1 uses, with no outside storage or operations, on Block "C" (Lot 2 – 2501 Enterprise Park Drive) and a portion of Block "B-2" (Lot 1 – 2330 Enterprise Drive), **approved**.

2007-APP-151; 2301 Enterprise Park Place (subject site), requested approval petition to modify commitments, associated with 2003-ZON-840, to replace commitments regarding permitted uses on lots four, five, six and seven, to allow for all C-4 uses, **approved**.

2003-ZON-840; (subject site), requested rezoning of 45 acres from D-5, I-3-U, I-4-U and SU-1 to C-S to provide for an industrial park with limited C-3, C-4, C-ID, I-2-U and I-3-U uses, **approved**.

LWC

2014-MOD-016



STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2014-ZON-055
Address: 1330 West Southport Road (approximate address)
Location: Perry Township, Council District #22
Petitioner: Bluff and Southport Partners, LLC,
Request: Rezoning of 7.71 acres from the D-P district to the D-P classification to provide for indoor live entertainment and outdoor seating and dining in addition to the uses approved by previous petitions.

ADDENDUM FOR OCTOBER 9, 2014

This petition was continued, with a waiver of notice to 13 days, from the September 25, 2014 hearing to the October 9, 2014 hearing, because notice to surrounding property owners was not provided before the September 25, 2014 hearing, as required.

September 25, 2014

RECOMMENDATIONS

Staff **recommends approval** of this request, subject to the proposed commitments file-dated, September 17, 2014.

SUMMARY OF ISSUES

The following information was considered in formulating the recommendation:

LAND USE

- ◇ This approximately 7.7-acre site is zoned D-P and is improved with a commercial shopping center. It is abutted to the north by multifamily dwellings, zoned D-P; to the west by commercial office uses, zoned D-P; to the east, across Bluff Road, by a commercial center and unimproved property, zoned C-3 and D-A, respectively; and to the south, across West Southport Road, by a commercial center, zoned D-P. The site was included in the 375-acre site that was rezoned in 1993 from the D-A and D-3 Districts to the D-P classification, via petition 93-Z-17, which provided for the Planned Unit Development known as Murphy's Landing.

(Continued)

STAFF REPORT 2014-ZON-055 (Continued)

PUD AMENDMENTS

- ◇ This request, if approved, would rezone this site from the D-P district to the D-P classification to provide for limited indoor live entertainment and the expansion of an existing outdoor seating area. Based on the site plans file-dated August 18, 2014, the existing outdoor seating area contains 320 square feet and would be expanded to 725 square feet. The proposed expansion of the outdoor seating area would be reasonably sized and located approximately 70 feet from the lot line of the multi-family complex and more than 100 feet from the nearest corner of a multi-family structure.
- ◇ The request would be consistent with the land use recommendation of the *Comprehensive Plan*, which proposes community commercial development, a land use category generally associated with the C-3 or C-4 zoning district, depending on site context. Here, given the site’s location at the intersection of two primary arterials, a regional customer draw would be presumed.
- ◇ However, this site has been developed as a planned unit development, and includes sensitive residential uses, and a tavern, with live entertainment, by its very nature, would be impactful to residential uses. Concerns related to taverns, with live entertainment, would be the late hours of operation, the noise generated by loud music, and the amount of activity occurring in the rear of the building, such as the loading and unloading of band equipment. Also, Staff has concerns regarding the rear door being left open to cool the kitchen area, when live entertainment occurred at the site.
- ◇ Commitments have been submitted to the petition that would prohibit noise or audio sources from exceeding 60 decibels at any property line. To further limit the impact the hours of operation for live entertainment would be limited 9:00 pm until 12:00 am on Thursday and Holiday nights, and from 9:00 pm until 1:30 am on Friday and Saturday nights.
- ◇ Additionally, the commitments indicate that the rear door, which faces the multi-family buildings, would be closed, except when deliveries are made, between 10:00 am and 6:00 pm, Monday through Friday.
- ◇ So, overall, in staff’s opinion, the proposed commitments would ameliorate Staff’s concerns enough to recommend approval of this petition.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-P Commercial center

SURROUNDING ZONING AND LAND USE

| | | |
|---------|---------------|-------------------------------|
| North - | D-P | Multifamily dwellings |
| South - | D-P | Commercial center |
| East - | C-3, D-A, C-4 | Commercial center, Unimproved |
| West - | D-P | Bank, office |

(Continued)

STAFF REPORT 2014-ZON-055 (Continued)

| | |
|--------------------------|--|
| COMPREHENSIVE PLAN | Proposes community commercial use. |
| THOROUGHFARE PLAN | This portion of West Southport Road is indicated on the Official Thoroughfare Plan as a primary arterial, with a 50-foot right-of-way existing and a 140-foot right-of-way proposed. |
| FLOODWAY/FLOODWAY FRINGE | This site is partially located in the floodway fringe of Little Buck Creek. |
| SITE PLAN | File-dated August 18, 2014 |

ZONING HISTORY

2012-MOD-011; 1330 West Southport Road (subject site), requests a modification of commitments, development statements and site plans related to 93-Z-17 (93-DP-1), as modified by 98-AP-82, 98-Z-160 (98-DP-21), 2005-APP-027, 2005-ZON-158 (2005-DP-016), 2006-APP-024, 2007-APP-116, and 2007-APP-126 (all related to Parcel "D"), to provide for a building expansion for the existing grocery store, eliminating sixteen parking spaces to the north and west of the existing building, by modifying Commitment Two of 2005-ZON-158 (2005-DP-016) to provide for additional floor area (previously not modified) and the development statement and site plan file-dated, February 21, 2006, approved by 2006-APP-024, **approved**.

2007-APP-126; 1420 West Southport Road, requests approval of a Modification of Development Statement, related to petition 93-Z-17, to provide for a commercial sign package for this site, **approved**.

2007-APP-116; 1330 West Southport Road (subject site), requested approval of modification of development statement associated with 2005-ZON-158 to provide for a sign package, **approved**.

2006-APP-024; 1330, 1450, 1500 and 1510 West Southport Road, 6925 South Harding Street and 6909 Murphy's Landing Lane (including subject site), modification of development statement and site plan, related to petitions 98-AP-82 and 2005-APP-027, altering the size and location of proposed commercial buildings, **approved pending submission of updated comprehensive development statement**.

2005-ZON-158; 1330 West Southport Road (includes subject site), requested rezoning of 11.31 acres from D-P to D-P to provide for a bar/restaurant with eight amusement machines and C-3 uses, **approved**.

2005-APP-027; 1510 West Southport Road (west of site), modification of development statement, related to petition 93-Z-17, to provide for two freestanding identification signs along Harding Street, and to eliminate the requirement that a comprehensive sign program be submitted for administrative approval prior to the issuance of an Improvement Location Permit, **granted**.

(Continued)

STAFF REPORT 2014-ZON-055 (Continued)

98-Z-160; 1450 West Southport Road (includes subject site), requested rezoning of 24 acres from D-P to D-P to provide for a 200-unit multifamily development and a commercial center including office and retail uses, **approved**.

95-AP-170; 7820 Bluff Road (across Southport Road to south), modification of planned-unit development statement and site plan to realign permitted uses and alter approved development pattern, **granted**.

98-AP-82; 1450 West Southport Road (including subject site), modification of planned-unit development statement and site plan to realign permitted uses and alter approved development pattern, **granted**.

93-Z-17; 7800 Bluff Road (includes subject site), requested rezoning of 375 acres from D-A and D-3 to D-P to provide for a commercial and residential mixed-use planned unit development, **approved**.

LWC

Photograph One – Existing tavern



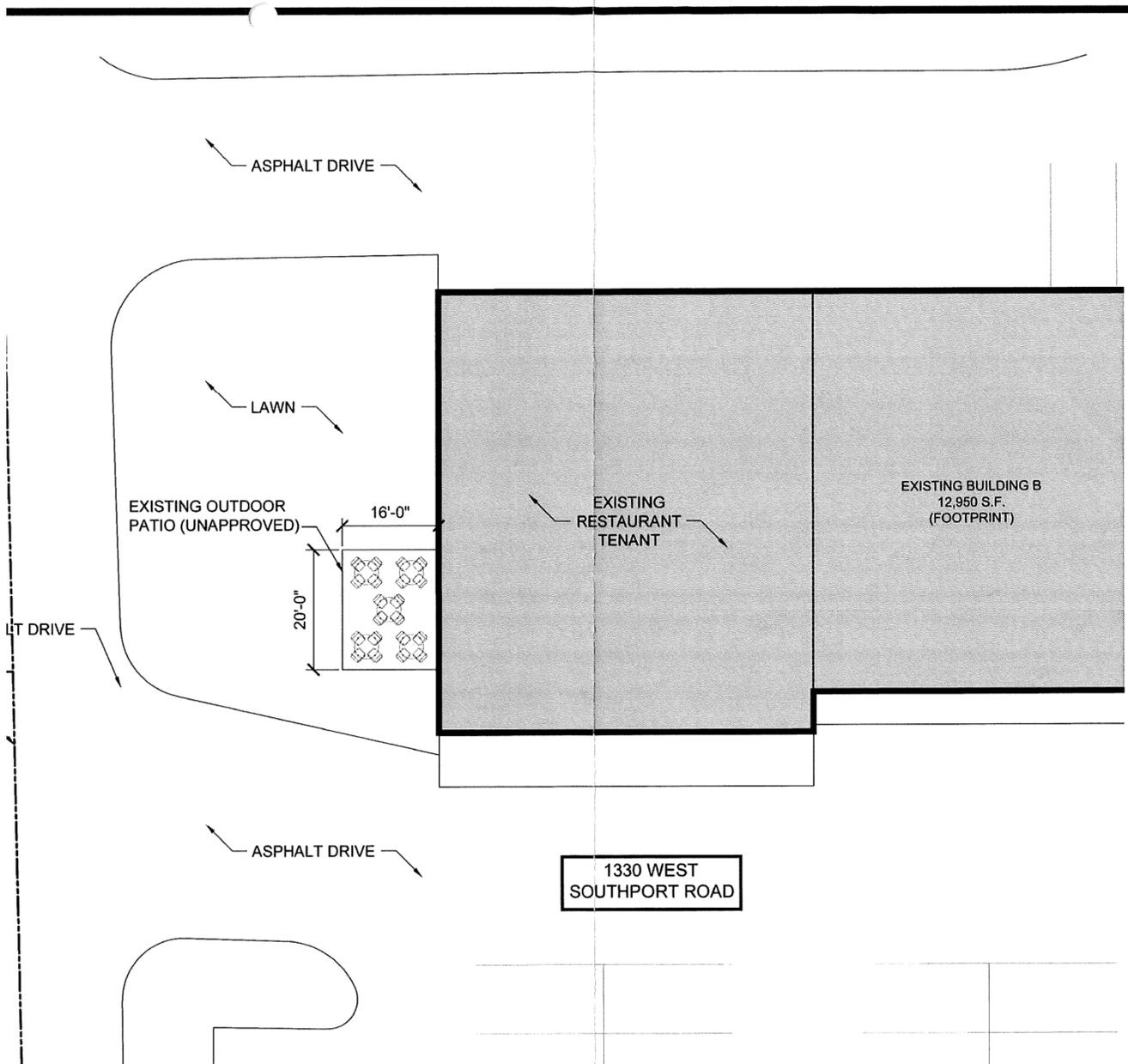
Photograph Two – Outdoor seating area



Photograph Three – Apartments to the north and northwest



Existing outdoor seating area - File-dated August 18, 2014



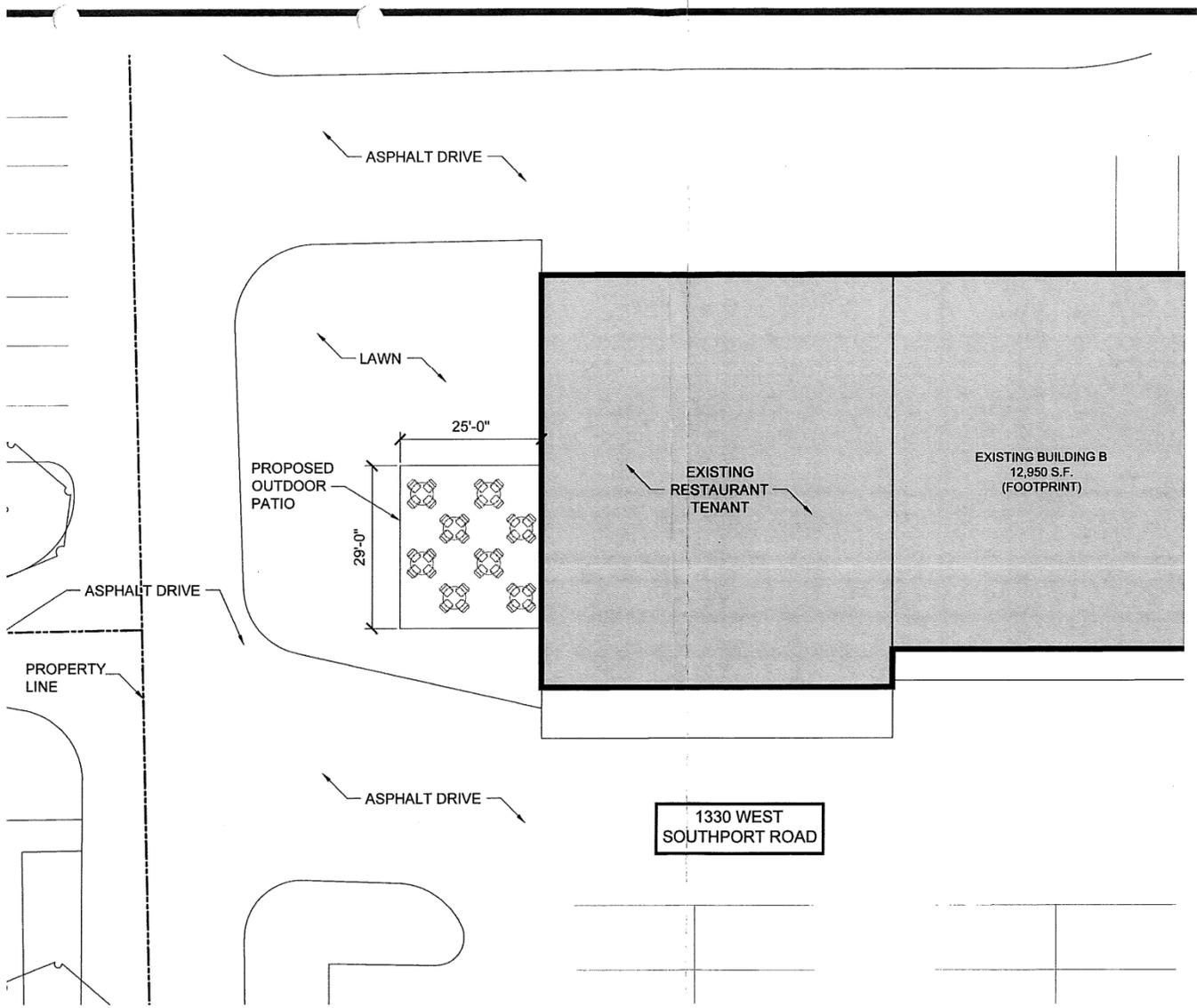
1330 WEST SOUTHPORT ROAD

ENLARGED EXISTING SITE PLAN

SCALE: 1" = 20'

A graphic scale bar is provided below the text, with markings at 0', 10', 20', and 40'.

Proposed Outdoor seating area - File-dated August 18, 2014



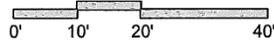
CTURE
architecture



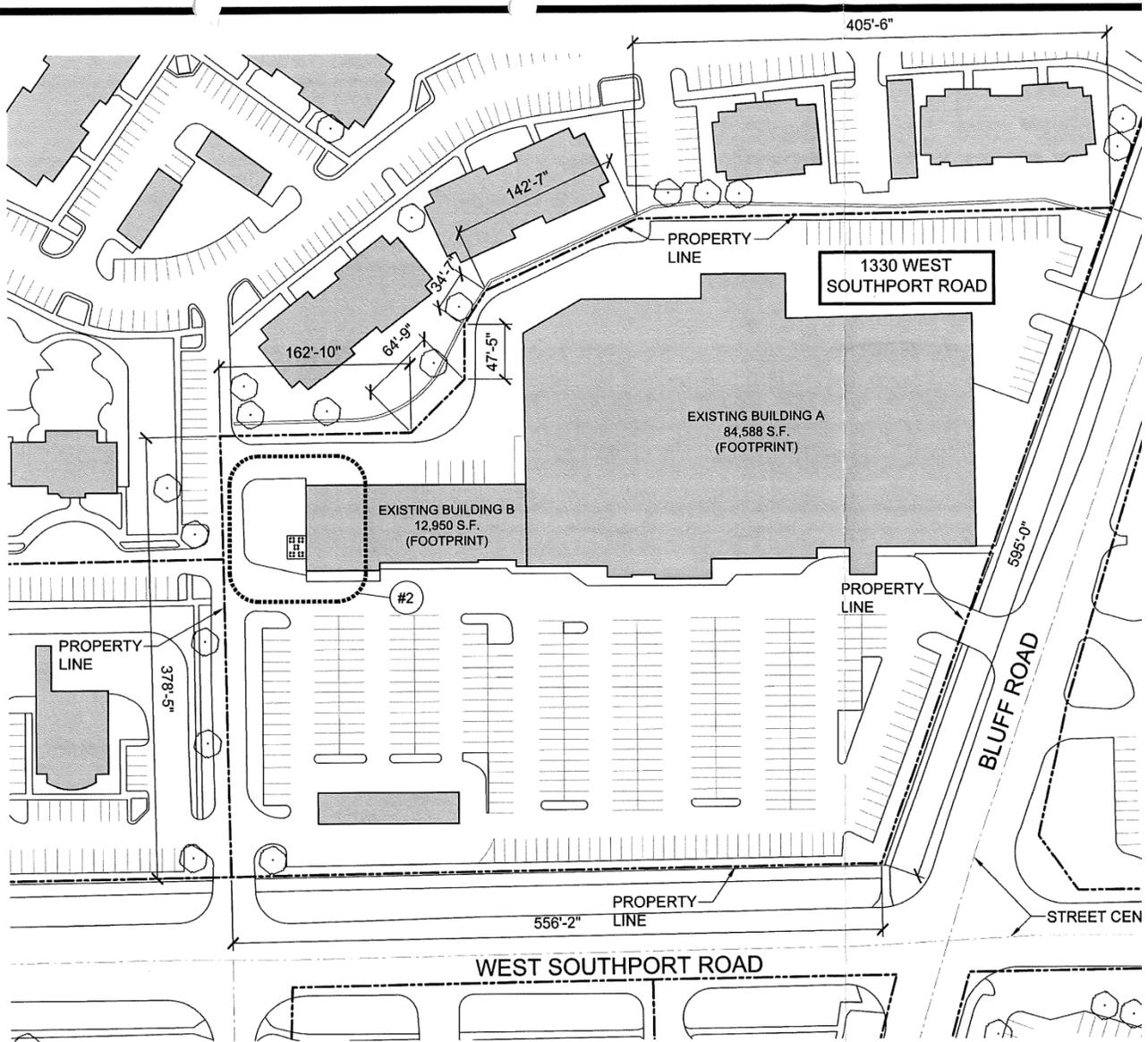
1330 WEST SOUTHPORT ROAD

ENLARGED PROPOSED SITE PLAN

SCALE: 1" = 20'



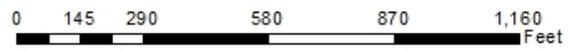
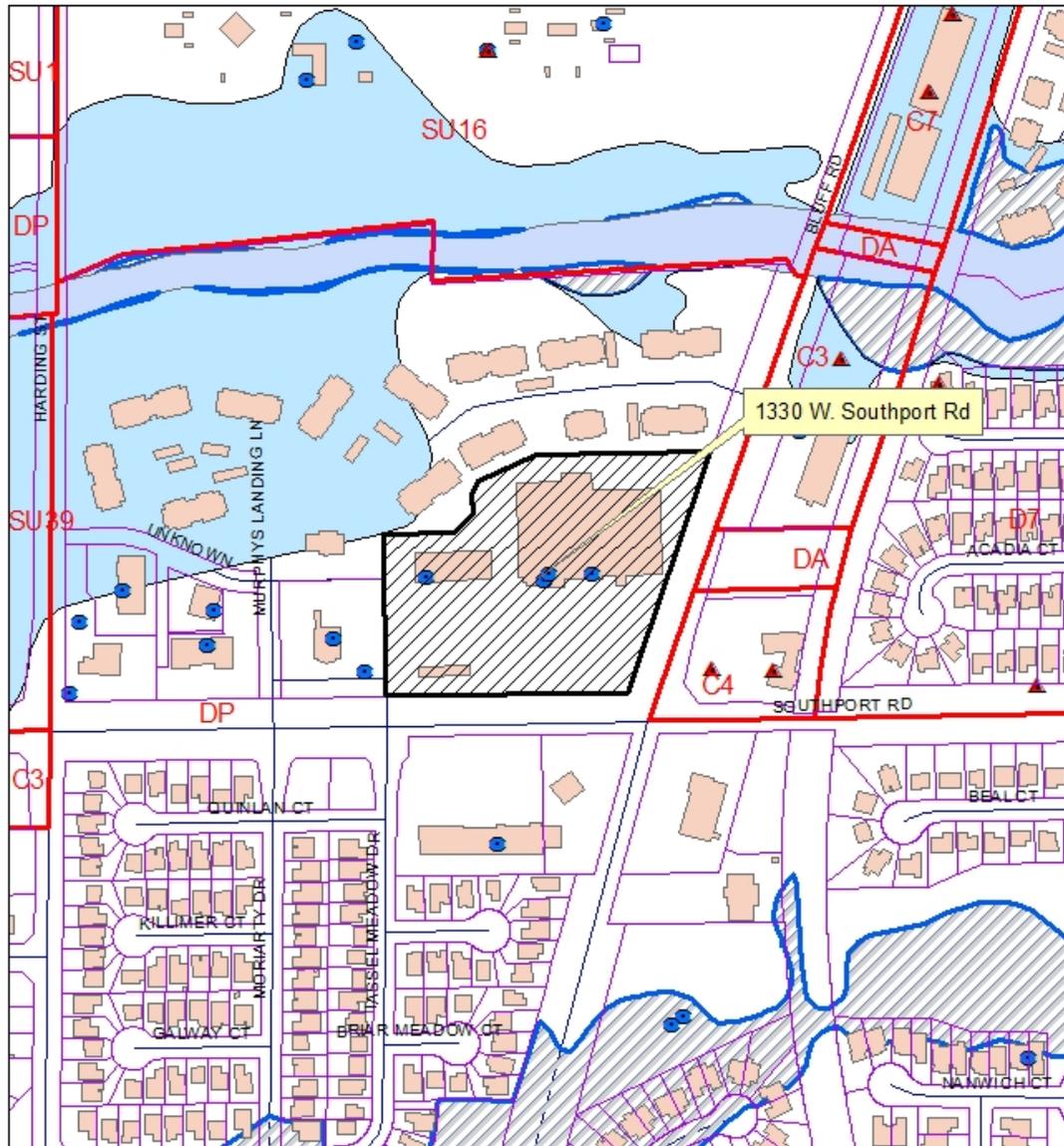
Overall Site Plan – File-dated August 18, 2014



ARCHITECTURE
ure + landscape architecture

1330 WEST SOUTHPORT ROAD
OVERALL EXISTING SITE PLAN
SCALE: 1" = 100'
0' 50' 100' 200'

2014-ZON-055



STAFF REPORT

**Department of Metropolitan Development
Division of Planning
Current Planning Section**

Case Number: 2014-CZN-829 / 2014-CVR-829
Address: 6051 (Filed as 6000) Madison Avenue (approximate addresses)
Location: Perry Township, Council District #24
Petitioner: Basic American Industries, Inc.
Request: Rezoning of 3.04 acres from the C-1 district to the D-9 classification to provide for a three-story, 64-unit multi-family building. Variance of development standards of the Dwelling Districts Zoning Ordinance to provide for a multi-family development, with a 12-foot front setback along Stevens Street (30-foot front setback from the right-of-way line or 60-foot setback from the centerline required), a 4.82-foot north side setback and 1.64-foot east side setback (minimum 20-foot perimeter yard required), and a minimum livability space ratio of 0.554 (minimum livability space ratio of 0.840 required for buildings less than four stories).

An automatic continuance has been filed by the petitioner's representative, **continuing this petition from the October 9, 2014 hearing to the November 13, 2014 hearing.**

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-1 Unimproved

SURROUNDING ZONING AND LAND USE

North - C-4 Commercial
South - D-3 Single-family dwellings
East - SU-35 Wireless communications facility
West - D-3 Single-family dwellings

COMPREHENSIVE PLAN Proposes office commercial use.

THOROUGHFARE PLAN This portion of Madison Avenue is indicated on the Official Thoroughfare Plan as a primary arterial with a 90-foot right-of-way existing and a 120-foot right-of-way proposed.

FLOODWAY/FLOODWAY FRINGE The site is not located in the floodway or floodway fringe.

FINDINGS OF FACT File-dated September 4, 2014.

SITE PLAN File-dated September 4, 2014.

BUILDING ELEVATIONS File-dated September 4, 2014.

(Continued)

STAFF REPORT 2014-CZN-829 / 2014-CVR-829 (Continued)

ZONING HISTORY

94-Z-177; 1650 Stevens Street, requests rezoning of 0.36 acre from C-1 to SU-35 for cellular mobile communication public utility service, including transmitting and receiving antenna, approved.

77-Z-119; 6045 Madison Avenue (subject site), requests rezoning of 5 acres, being in the D-3 District, to the C-1 classification to provide for commercial development, **approved**.

77-Z-118; 1711 Edgewood Avenue, requests rezoning of 3 acres, being in the D-3 District, to the C-3 classification to provide for commercial development, **approved**.

77-Z-117; 6025 Madison Avenue, requests rezoning of 6 acres, being in the D-3 District, to the C-4 classification to provide for commercial development, **approved**.

LWC



2014-CZN-829 / 2014-CVR-829

