

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

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

**STAFF REPORTS FOR FEBRUARY 9, 2012**

**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.**

<b>PETITION NO.</b>	<b>PETITION ADDRESS AND LOCATION</b>	<b>PAGE</b>
<b>CONTINUED PETITIONS:</b>		
2011-ZON-095	1825 EAST NEW YORK STREET CENTER TOWNSHIP, CCD # 16	2

\*Automatic Continuance

\*\* Continuance Requested

\*\*\* Withdrawal or Dismissal Requested

## STAFF REPORT

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

**Case Number:** 2011-ZON-095 (Amended)  
**Address:** 1825 East New York Street (Approximate address)  
**Location:** Center Township, Councilmanic District # 16  
**Petitioner:** Equity Trust FBO  
**Request:** Rezoning of 0.25 acre, from the D-8 District, to the C-S classification to provide for an automobile repair shop, an office and a multifamily dwelling.

#### ADDENDUM FOR FEBRUARY 9, 2012

This petition has been amended to eliminate the proposed daycare center and C-3C uses and to limit the uses to an automobile repair facility, with specific commitments, an office use, with no more than two employees and a multifamily dwelling (only as the sole use). The commitments would limit the hours of operation and the number of employees, prohibit freestanding signs and limit the automobile repair operation to the existing building, so that its destruction or demolition would not permit the operation to resume.

While this request would be an improvement over the original petition, in staff's opinion, the consistency of the current zoning district with the plan would continue to warrant staff's **recommendation of denial**.

January 12, 2012

#### RECOMMENDATIONS

Staff **recommends denial** of the rezoning petition.

#### SUMMARY

The following information was considered in formulating the recommendation:

#### **LAND USE**

- ◇ This request would provide for the C-S district to legally establish an existing automobile repair shop and provide for a daycare facility, an office use and limited C-3C uses.
- ◇ This site consists of two lots originally platted in 1872 as two, 40 by 137.7-foot residential lots, Lots 28 and 29 of Pettibone and Rickard's Highland Home Subdivision. As originally platted, this site did not have frontage on New York Street. It was platted with frontage on Randolph Street only. According to the 1898 Sanborn maps, a two-family dwelling existed on the northern lot and a single-family dwelling existed on the southern lot. While the 1927 Baist maps still show the residential dwellings on both lots, the 1941 Baist maps indicate a filling station,

(Continued)

## **STAFF REPORT 2011-ZON-095 (Continued)**

consistent with the 1932 variance approval for a gasoline station. According to aerial photography, a commercial building was constructed on Lot 24 by 1937. Sometime between 1927 and 1937, New York Street was dedicated and constructed through Lots 26 and 27 of the same subdivision, creating 137.7 feet of frontage for Lot 28.

- ◇ The surrounding uses include residential uses to the north, south and east. The area to the west is vacant because the former dwellings were demolished three to four decades ago. The site to the west was included as a proposed parking lot, with the 2003 petition to legalize this site, which was denied. This use would not be consistent with the Highland Brookside Plan, which recommends medium-density residential development of five to fifteen units per acre and the D-8 District. Since the current district complies with the plan, the request to rezone would not be appropriate or supportable.

### **SITE PLAN**

- ◇ The site plan indicates that seven parking spaces would be provided to the east and west of the existing building, with a ten-foot east front yard, a five-foot west side yard, and with a setback from the south lot line of more than 25 feet. No landscape plan has been proposed for this site other than the installation of a six-foot tall wooden fence along the south property line. These proposed parking spaces do not exist, as the proposed parking area currently consists of grass and scattered gravel. The area to the north of the building is entirely paved. Any new parking area should be paved and landscaping should be provided on the south side of any proposed fence.
- ◇ The site plan indicates that there would be sufficient maneuvering area for the proposed parking area. In fact, 52 feet of paved area would be available and would permit a landscape yard of six to ten feet to be provided along the New York Street frontage. Additionally, the Randolph Street curb cut is more than 32 feet wide and could easily be reduced to 24 feet so that additional landscaping could be provided along Randolph Street.
- ◇ The site plan also indicates two curb cuts along New York Street and one curb cut along Randolph Street. Currently, only the western curb cut exists along New York Street (See Photography Four) in addition to the one Randolph Street curb cut. There is no need for an additional curb cut along this site's 138-foot New York Street frontage; therefore, the easternmost curb cut should be removed from the site plan.
- ◇ The site contains several random poles of varying heights along or near the frontage (See Photographs One through Four). Because none of these poles can be used for signs, because the proposed C-S statement provides for only two non-illuminated wall signs, because they appear to serve no purpose, and because they are located on or adjacent to the right-of-way line, these poles should be removed.

### **GENERAL INFORMATION**

EXISTING ZONING AND LAND USE

D-8 Commercial

(Continued)

**STAFF REPORT 2011-ZON-095 (Continued)**

**SURROUNDING ZONING AND LAND USE**

North -	D-8	Residential
South -	D-8	Residential
East -	D-8	Residential
West -	D-8	Vacant

**NEIGHBORHOOD PLANNING AREA**

The site is located within the boundaries of the Highland-Brookside Neighborhood Plan, which designates the site for multifamily development of five to fifteen units per acre and the D-8 district.

**THOROUGHFARE PLAN**

The Official Thoroughfare Plan indicates that East New York Street is a primary arterial with an 80-foot right-of-way existing and proposed.

**ZONING HISTORY**

**2003-UV2-011; 1825 East New York Street and 309-315 Walcott Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for an automobile repair shop, **denied**.

**94-UV1-98; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for the continued operation of automobile sales and body shop, **denied**.

**92-UV1-39; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile sales and display, **one-year temporary variance granted**.

**86-UV1-68; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile sales and display with temporary storage of inoperable vehicles, **three-year temporary variance until June 3, 1989, granted**.

**80-UV1-97; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile sales and display, **five-year temporary variance until January 1, 1985, granted**.

**77-UV3-64; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile sales and display and repair, **three-year temporary grant**.

**74-UV3-65; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile sales, display and repair, **three-year temporary grant**.

(Continued)

**STAFF REPORT 2011-ZON-095 (Continued)**

**72-UV1-155; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile sales, display, repair and automobile painting, **one-year temporary grant**.

**71-UV1-152; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile sales, display and repair, **one-year temporary grant**.

**69-V2-167; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile sales and display, **one-year temporary grant**.

**67-V2-34; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to provide for automobile repair at gasoline station, **granted**.

**54-V-313; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance to erect an addition to a gasoline station, **granted**.

**32-V-219; 1825 East New York Street**, request a variance of use of the Dwelling Districts Zoning Ordinance erect a gasoline station, **granted**.

LWC

\*\*\*\*\*

Photograph One- Site



Photograph Two – Randolph Street Curb Cut



Photograph Three – New York Street frontage



Photograph Four – Proposed eastern curb cut



2011-ZON-095  
1825 E. New York St.



**Legend**

- CCGIS.PARCELS
- Zoning
- Buildings
- Centerline

