ORDINANCE NO. 12-32

AN ORDINANCE APPROVING A REZONING FOR BARNARDO STUCCO ON 0.97± ACRES ZONED M-2 (GENERAL MANUFACTURING DISTRICT) TO M-2 (GENERAL MANUFACTURING DISTRICT) WITH A PMU (PLANNED MIXED USE) OVERLAY DISTRICT AT 479 AND 481 LONDON ROAD

WHEREAS, the Planning Commission at its meeting of April 18, 2012 recommended approval of a Rezoning for Bernardo Stucco on 0.97± acres zoned M-2 (General Manufacturing District) to M-2 (General Manufacturing District) with a PMU (Planned Mixed Use) Overlay District at 479 and 481 London Road, and

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That the Rezoning for Bernardo Stucco on 0.97± acres zoned M-2 (General Manufacturing District) to M-2 (General Manufacturing District) with a PMU (Planned Mixed Use) Overlay District at 479 and 481 London Road, the same and is hereby confirmed, approved, and accepted.

SECTION 2. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Revised Code.

VOTE ON RULE SUSPENSION: YEAS 6 NAYS 0 ABSTAIN 0

PASSED: 5/14, 2012 YEAS 6 NAYS 0 ABSTAIN 0

ATTEST: Christine Haus
CITY CLERK

MAYOR

CITY OF DELAWARE
PLANNING & COMMUNITY DEVELOPMENT

PLANNING COMMISSION / STAFF REPORT

CASE NUMBERS: 2012-0327 & 0507
REQUEST: Multiple Requests
PROJECT: Bernardo Stucco
MEETING DATE: April 18, 2012

APPLICANT/OWNER
Bernardo Stucco
John McMillen
6160 Merchant Road
Delaware, Ohio 43015

REQUEST
2012-0327: A request by Bernardo Stucco for approval of a Conditional Use Permit allowing the placement of a Planned Mixed Use (PMU) Overlay to be established on 0.97 acres zoned M-2 (General Manufacturing District) to M-2 (General Manufacturing District) with a PMU (Planned Mixed Use) Overlay District at 479 and 481 London Road.
2012-0507: A request by Bernardo Stucco for approval of a Rezoning of 0.97 acres zoned M-2 (General Manufacturing District) to M-2 (General Manufacturing District) with a PMU (Planned Mixed Use) Overlay District at 479 and 481 London Road.

PROPERTY LOCATION & DESCRIPTION
The two properties are located on the east side of London Road just south of the railroad tracks across the street from Oberfields. A commercial building located at 479 London Road on 0.39 acres and a single-family home located at 481 London Road on 0.58 acres comprises the subject site. The subject properties are zoned M-2 (General Manufacturing Business District) as are all the surrounding properties.

BACKGROUND
The Delaware County Auditors website indicates the commercial building was constructed in 1970 and the single-family house was built in 1961.The owner of the property apparently has a contract to sell 479 London Road (039 acre parcel) to a client for a used car lot which is allowed in a B-4 (General Business) zoning district but not in a M-2 district. The Planned Mix Use (PMU) Overly District would permit automotive uses and the existing single-family residence along with general manufacturing uses. The stucco business has been vacant for a few years and is not currently an eyesore but like most vacant business could become a problem in the future. Therefore, the prospect of a used car lot could be considered a benefit to the neighborhood and the City on parcels that could have limited future use potential because of the parcel size and location.

STAFF ANALYSIS

- **COMPREHENSIVE PLAN:** The subject site is located in the northeast quadrant of the Southwest Subarea of the City of Delaware Comprehensive Plan and recommends heavy manufacturing as the future land use. The site is surrounded by heavy manufacturing future land uses to the north, south, and west and to the east in the Near South Subarea. The prior uses which were a stucco showroom/storage area in the recent past and a restaurant prior to that coupled with the two residential uses to the north indicates the transitional nature of these small parcels (approximate one half acre or less) surrounded by the larger parcels which can accommodate manufacturing uses. Actually the Near South Subarea, which is located across the railroad tracks from the subject site, recommendation (see below) is for commercial development to support the neighborhood. A good argument could be made that this site is more compatible with the Near South Subarea than the Southwest Subarea based on parcel sizes and past development trends.

  LU 18.5 Near South Subarea - Appropriate commercial development will be supported on London Road that doesn't adversely impact the adjacent residential neighborhoods.

  Therefore, the request could be construed as consistent with the past and present surrounding land uses that abut the site. Also, in March 2012, the Planning Commission and City Council approved a rezoning from M-2 (General Manufacturing) to B-3 (Community Business District) for a car wash that has similar characteristics pertaining to parcel size and past uses of the subject property. This could be considered a legitimate hardship not created by the owner and an appropriate justification for supporting the rezoning.

- **ZONING:** As previously mentioned, the properties are zoned M-2 (General Manufacturing District) Furthermore, on August 13, 2001 the City of Delaware adopted a revised zoning code that was substantially different than the previous codes in philosophy. The zoning codes prior to August 13, 2001 were Euclidean in

nature which allows uses in more restrictive zones in less restrictive zones. For example, prior to 2001, used car lots and single family homes were permitted in the M-2 (General Manufacturing) zoning district.

Although this application does not include a proposed site plan, staff would require reasonable site plan development upgrades that would achieve minimum compliance with zoning requirements to create a more aesthetically pleasing environment and upgrading a vacant business without creating a financial hardship that would cause the site not to be redeveloped. These upgrades would be required for the approval of a preliminary and final development plans.

- **DEVELOPMENT TEXT:** Being proposed as a PMU Overlay, the Development Text sets forth the development standards and requirements for this development and any future development. Staff has crafted a Development Text that is sensitive to the residential and commercial surroundings.
- **ROADS AND ACCESS:** The commercial business and single-family house both have a single curb cut from London Road. The commercial lot has essentially has one continuous curb cut that will be required to be reduced to the maximum width allowed per code. In addition, a sidewalk would need to be installed along the frontage of the site when redeveloped that complies with the City Engineer.
- **SITE CONFIGURATION:** The vacant commercial business building is located in the middle rear of the site with a paved parking lot in the front and north of the building and a gravel lot in the rear of the building. The single-family house is located on the southern portion of the property with a typical two car wide driveway. Any parking areas will be required to be landscaped per code. Furthermore, any future signage would be required to comply with the zoning code.
- **BUILDING DESIGN:** The commercial business and existing house would not have to achieve with Chapter 1171.08 Residential Development Design Criteria and Performance Standards because they are existing. However, any expansions and/or any new commercial/general manufacturing buildings or development would likely have to comply with Chapter 1171 Design and Performance Standards.
- **TREE REMOVAL & REPLACEMENT:** There are some several mature trees on the site and if they are removed in the redevelopment of the site, compliance with the tree preservation regulations would be required.
- **LANDSCAPING & SCREENING:** Although the single-family property to the north is zoned M-2 (General Manufacturing), staff would require a buffer to the single-family house if the existing single-family house is converted to business or general manufacturing use. The remainder of the site would not require screening to adjacent uses because the surrounding properties are zoned general manufacturing. In addition, the required streetscape and parking lot landscaping would be required upon any tenant reuse and/ or site redevelopment.
- **CONDITIONAL USE PERMIT:** The approval of a Planned Mixed Use (PMU) Overlay requires the criteria of a Conditional Use Permit to be met. Staff has reviewed these review criteria and finds that all applicable criteria are met for approval of the Conditional Use Permit.

STAFF RECOMMENDATION (2012-0327 – CONDITIONAL USE PERMIT)

Staff recommends approval of a request by Bernardo Stucco for approval of a Conditional Use Permit allowing the placement of a Planned Mixed Use (PMU) Overlay to be established on 0.97 acres zoned M-2 (General Manufacturing District) to M-2 (General Manufacturing District) with a PMU (Planned Mixed Use) Overlay District at 479 and 481 London Road.

STAFF RECOMMENDATION (2012-0507 - REZONING)

Staff recommends approval of a request by Bernardo Stucco for approval of a Rezoning of 0.97 acres zoned M-2 (General Manufacturing District) to M-2 (General Manufacturing District) with a PMU (Planned Mixed Use) Overlay District at 479 and 481 London Road.

PC TEXT

2012-0507
479 and 481 LONDON ROAD

DEVELOPMENT TEXT
PLANNED MIXED USE OVERLAY DISTRICT

1. DESCRIPTION OF DEVELOPMENT

Bernardo Stucco is proposing a Planned Mixed Use Overly District on two properties zoned M-2 (General Manufacturing District) that encompasses 0.97 acres. The properties are at 479 and 481 London Road located on the east side of London Road just south of the railroad tracks across from Oberfields.

2. GENERAL DEVELOPMENT STANDARDS

a. **Purpose and Intent.** It is the intent of the owner to allow the subject property to achieve compliance with the M-2 (General Manufacturing District) uses and some B-4 (Community Business District) uses. Furthermore, the existing single-family use on the 0.58 acres property is a permitted use. This Development Text represents the zoning requirements for this area unless otherwise noted.

b. **Conformance with Codified Ordinances and City Policy.** Unless noted otherwise within this development text, all development will be constructed and provided in conformance with the then current Codified Ordinances and City Policy in effect at the time of application.

c. **Limitations.** Nothing in this text shall prohibit additional restrictions or requirements from being placed on the approval of any Final Development Plan.

d. **Major Modifications.** The commercial building, existing house, and site features at the date of approval comprise the Final Development Plan. Once a Final Development Plan has been approved by City Council, any subsequent major modification to that plan shall only be permitted by resubmission and approval of a revised Final Development Plan through the procedures set forth in the Zoning Code. Major modification for the purposes of this text shall mean any modification of the approved Final Development Plan, as determined by the Director of Planning & Community Development, that results in:

(1) Any major change in the use or occupancy or any major increase in the residential, commercial and general manufacturing building area.
(2) Major change in the approved location of land uses.

e. **Minor Modifications.** Once a Final Development Plan has been approved by City Council, any subsequent minor modification to that plan shall only be permitted by resubmission and approval by the Director of Planning and Community Development of a revised Final Development Plan. Minor modification for the purposes of this text shall

mean any modification of the approved Final Development Plan, as determined by the Director of Planning & Community Development, that results in:

(1) Any modification that is not considered a major modification by this Zoning Text or by determination of the Director of Planning & Community Development.
(2) Any minor change to the use or occupancy other than those uses specifically allowed in this text or any minor changes to the approved site layout.
(3) Minor change in the approved location of land uses.
(4) Minor structural alterations that do not alter the overall design intent of the building.

3. **USE & SPECIFIC DEVELOPMENT STANDARDS**

a. **Uses.** The following general manufacturing and commercial uses shall be considered permitted, conditionally permitted, or limited uses on the two parcels as represented in the chart below by P, C, or L, respectively, and as defined by Chapter 1121 of the Zoning Code. Any use not listed in the chart shall be considered a prohibited use unless amended by action of the Planning Commission and City Council through a Zoning Amendment process.

(1) **Permitted Uses.** Permitted uses are permitted by-right and shall meet all development standards specified within this text and the Zoning Code, as applicable.

(2) **Limited Uses.** Limited uses shall be considered permitted uses subject to complying with all the specific limitations and restrictions as specified within this text as determined by Final Development Plan approval.

(3) **Conditionally Permitted Uses.** In addition to all standards specified within this development text, uses listed as conditionally permitted uses shall meet all the then current Zoning Code standards for approval of a Conditional Use Permit current at the time of application for the specific conditional use as well as any other regulations contained within the Zoning Code and applicable to the conditional use.

(4) **Accessory Uses and Structures.** Specific accessory uses are identified but other accessory use items that are customarily incidental and secondary to the principal use of the land are permitted. Such items include but are not limited; trash receptacles and enclosures, small storage buildings, etc. If the uses are specified as conditional or limited uses the processes and limitations shall apply regardless of accessory use status.

Land Use Category	**479 & 481 London Road**
(a) Residential	
(1) The existing single family house at 481 London Road	P
(b) Offices	
(1) Research and development facility	P
(2) Office – professional, administrative and sales	P
(3) Training facility	P
(c) Storage and Distribution	
(1) Distribution facility/truck terminal	P
(2) Warehouse or indoor storage facility	P
(3) Storage (aboveground) of flammable liquids	C
(d) Outdoor Storage	
(1) Storage (general) of materials	P
(2) Storage of fleet vehicles for operation of principal use	P
(3) Storage of equipment for sale or rental	P
(e) Manufacturing and Processing	
(1) Assembly and production facility utilizing products from previously and elsewhere prepared materials	P
(2) Meat packing	P
(3) Manufacture of products from raw materials, including:	C
A. Explosives manufacture or storage, including small arms ammunition	C

PC TEXT

Land Use Category	479 & 481 London Road
B. Distillation of coal, petroleum, refuse, grain, wood or bones, except in manufacture of gas	C
C. Fertilizer or compost manufacture or storage	C
D. Mining & mixing of stone, sand & gravel	C
E. Production of acid, ammonia, chlorine or bleaching powder, bulk storage of corrosive acids & derivatives	C
F. Production of glue, paper, plastics, rubber & size/gelatin if process includes refining of products from animal refuse	C
G. Production of asphalt/asphalt products & charcoal	C
H. Production of celluloid or pyroxylin, or explosive or flammable cellulose or pyroxylin products	C
I. Creosote manufacture or treatment	C
(f) Transportation	
(1) Heliport	C
(2) Train/railroad yard	P
(g) Automotive and Transportation	
(1) Gasoline and refueling stations	P
(2) Automotive repair garage	P
(3) Automotive sales and rental	P
(4) Automotive service station	P
(5) Drive thru facility associated with any use	P
(6) Car Wash	P
(7) Parking lots and garages	P
(8) Truck, farm, recreational vehicles, storage and sales	P
(9) Terminal – bus, cab	P
(h) Retail and Service	
(1) Kennel, boarding stables	P
(i) Other	
(1) Public safety facility	P
(2) Public service/maintenance facility	P
(3) Public utility substation or distribution facility	P

Land Use Category	479 & 481 London Road
(4) Recycling facility	C
(5) Electricity-generating windmill (ORD 04-91 Passed 6-14-04)	C
(j) Accessory Uses	
(1) Employee medical clinics, cafeterias and recreational facilities	A
(2) Fences and walls	A
(3) Maintenance, waste disposal and storage facility within enclosed building	A
(4) Off-street parking and loading	A
(5) Signs	A
(6) Trash receptacles	A

b. **Lot Standards.** The two existing lots are permitted as platted; however, they cannot be split into more than two lots. They can be consolidated into a single lot and be assembled with adjacent lots in conformance with this text and all applicable codes. The following standards shall apply for lot width and frontage.

Lot Standards	479 & 481 London Road
(1) Minimum lot width	65 ft.
(2) Maximum lot frontage	65 ft.

c. **Building Setback Standards.** The following standards shall apply for minimum building setbacks, except as otherwise approved on the Final Development Plan.

Minimum Building Setbacks	479 & 481 London Road
(1) Front Yard	50 ft.
(2) Side Yard	20 ft.
(3) Rear Yard	50 ft.

d. **Parking Setbacks**. The following standards shall apply for minimum parking setbacks. Parking setbacks include any parking space, parking lot drive aisle and parking lot circulation

Minimum Parking Setbacks	479 & 481 London Road
(1) Setback from London Road	10 ft.
(2) Setback from rear and side setbacks	5 ft.

e. **Maximum Building Height.** The maximum height of any building or structure shall be 35 feet as measured from finished floor elevation to the highest point of the roof.

f. **Building Design.** Any new building and/or structure shall comply with Chapter 1171 Design Criteria and Performance Standards.

g. **Tree Removal and Replacement.** Any new development activity shall comply with Chapter 1168 Tree Preservation Regulations.

h. **Landscaping and Screening.** Any new developments shall comply with all landscaping and screening requirements per Chapter 1166.

(1) A buffer to the existing single-family house to the north shall be required if the existing single-family house on the subject site is converted to a business or general manufacturing use. A six foot high opaque privacy fence or similar improvement is required. A chain link fence shall not be allowed for this purpose.

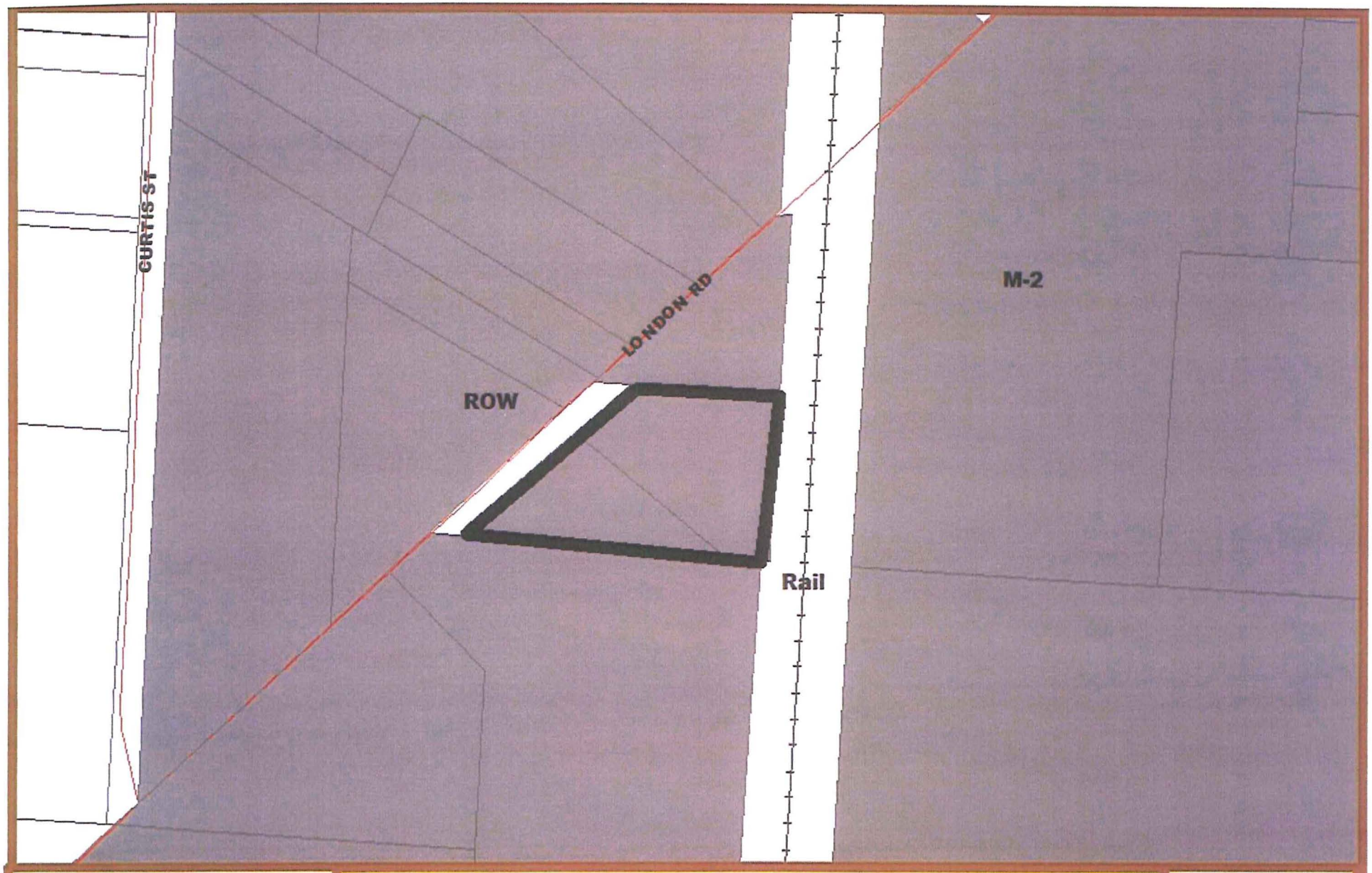
i. **Lighting.** Building, site, and accent lighting shall be provided in accordance with the Chapter 1158 Lighting Plan

j. **Signs.** All signage shall comply with Chapter 1165 Signs and the Gateways and Corridor Plan of the City.

CITY OF DELAWARE
PLANNING & COMMUNITY DEVELOPMENT

2012-0327 & 0507
Conditional Use Permit & Rezoning
479 & 481 London Road
Location Map

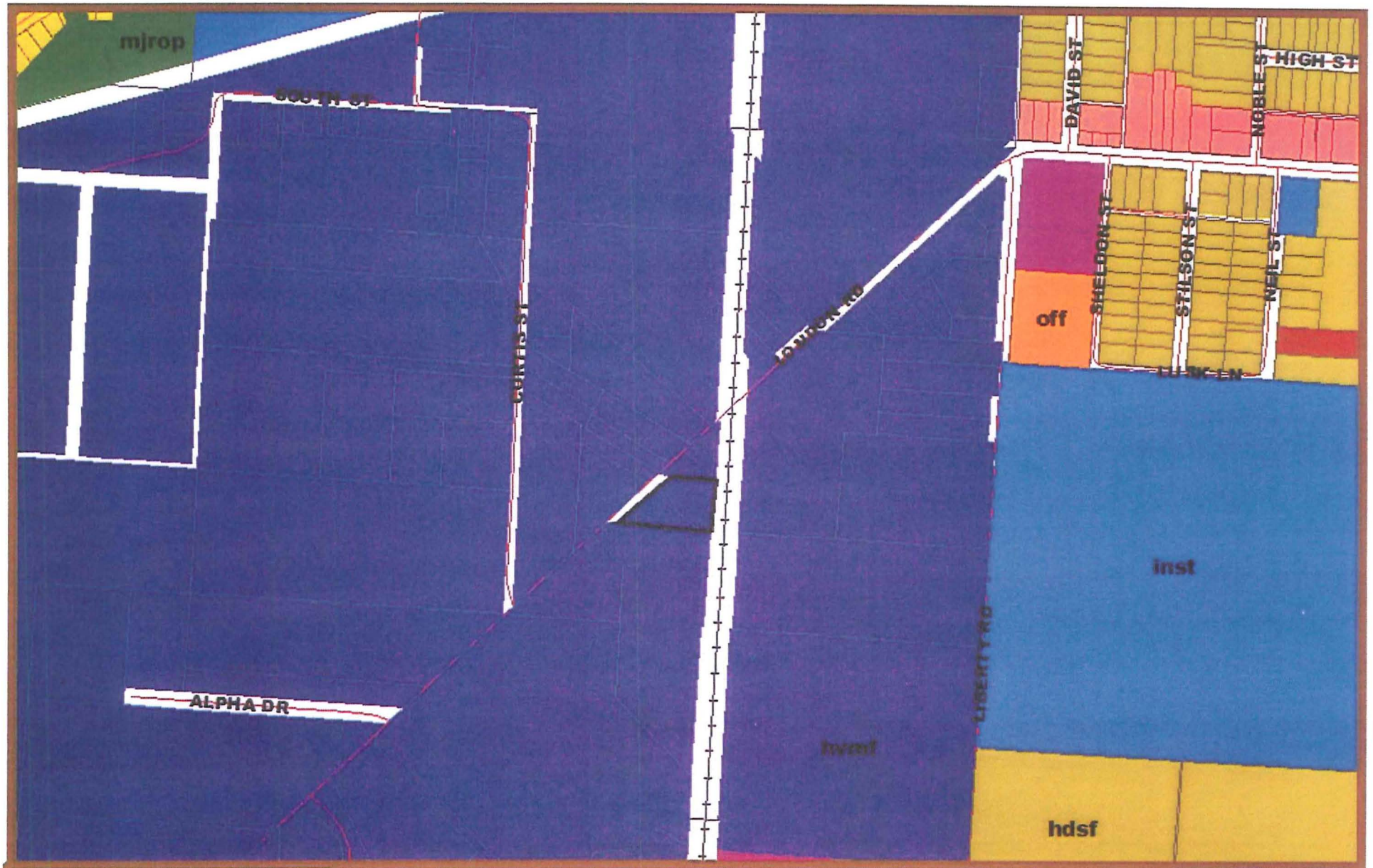
N



CITY OF DELAWARE
PLANNING & COMMUNITY DEVELOPMENT

2012-0327 & 0507
Conditional Use Permit & Rezoning
479 & 481 London Road
Zoning Map

N



CITY OF DELAWARE
PLANNING & COMMUNITY DEVELOPMENT

2012-0327 & 0507
Conditional Use Permit & Rezoning
479 & 481 London Road
Comprehensive Plan Map

N

CITY OF DELAWARE
PLANNING & COMMUNITY DEVELOPMENT

2012-0327 & 0507
Conditional Use Permit & Rezoning
479 & 481 London Road
Aerial (2010)

N

2012-0507
479 and 481 LONDON ROAD

DEVELOPMENT TEXT
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(2) Office – professional, administrative and sales	P
(3) Training facility	P
(c) Storage and Distribution	
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(d) Outdoor Storage	
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(3) Storage of equipment for sale or rental	P
(e) Manufacturing and Processing	
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(3) Manufacture of products from raw materials, including:	C
A. Explosives manufacture or storage, including small arms ammunition	C

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F. Production of glue, paper, plastics, rubber & size/gelatin if process includes refining of products from animal refuse	C
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