



**CITY OF  
TUCSON**  
ZONING  
EXAMINER'S  
OFFICE

## Preliminary Report

July 18, 2014

Ina Road Group  
5633 East Grant Road  
Tucson, AZ 85712

Steve Shenitzer  
5633 East Grant Road  
Tucson, Arizona 85712

Kevin B. Petrick, Architect  
KBP Architecture, LLC  
11635 East Tanque Verde Road  
Tucson, AZ 85749

**SUBJECT: C9-14-03 Broadway Festival – Leonora Avenue**  
**Public Hearing: June 19, 2014; July 10, 2014**

Dear Mr. Shenitzer,

Pursuant to the City of Tucson Unified Development Code and the Zoning Examiner's Rules of Procedures (Resolution No. 9428), this letter constitutes written notification of the Zoning Examiner's summary of findings for rezoning case C9-14-03 Broadway Festival – Leonora Avenue. At the expiration of 14 days of the conclusion of the public hearing, the Zoning Examiner's Report (complete with background information, public hearing summary, findings of fact, conclusion, recommendation, and public hearing minutes) to the Mayor and Council shall be filed with the City Manager. A copy of that report can be obtained from either the Planning and Development Services Department (791-5550) or the City Clerk.

If you or any party believes that the Zoning Examiner's recommendation is based on errors of procedure or fact, a written request to the Zoning Examiner for review and reconsideration may be made within 14 days of the conclusion of the public hearing.

The public hearing held by the Zoning Examiner shall constitute the public hearing by the Mayor and Council. However, any person may request a new public hearing before the Mayor and Council. A request for a new public hearing must be filed in writing with the City Clerk within 14 days of the close of the Zoning Examiner's public hearing.

## **SUMMARY OF FINDINGS**

This is a request by Steve Shenitzer, on behalf of the property owners, Ina Road Group, LLC, to rezone approximately 0.80 of an acre, from R-3 to C-1, to create one unified C-1 zoning designation on an approximately 1.92 acre development site. The portion of the property fronting on Broadway is currently zoned C-1 while the northern portion of the property is zoned R-3. The site is located on the northwest corner of Broadway Boulevard and Leonora Avenue.

This rezoning case is being concurrently reviewed with an associated development plan package. The development plan must demonstrate conformance with all applicable standards and conditions prior to Mayor and Council of adoption of the rezoning ordinance.

The preliminary development plan proposes to clear the existing Christian Faith Fellowship Church buildings and redevelop the parcel with two new buildings and associated pedestrian and vehicle circulation. The development plan proposes a mix of retail and restaurants including drive-through services. Access to the site is proposed to be from Broadway Boulevard with an additional access point from Leonora Avenue. The developer shall amend the preliminary development plan to restrict turning movements into the neighborhood and provide for off-site traffic mitigation as indicated below and in the proposed conditions.

Broadway Boulevard is a six-lane arterial with a shared multi-use bike and turn lane adjacent to the redevelopment site. There is a raised median with eastbound left turn lanes into the shopping plaza to the east and to Leonora Avenue. There is an existing bus stop for SunTran Route 8 on Broadway Boulevard approximately 110 feet west of the intersection of Broadway Boulevard and Leonora Avenue. According to the *Major Streets and Routes Plan* map, Broadway Boulevard is a gateway arterial street. Leonora is designated a local street.

To the north of the rezoning site, across 10<sup>th</sup> Street, are single story residences zoned R-1. To the south of the site is the associated C-1 parcel. Across Broadway to the south are neighborhood commercial uses, also zoned C-1. To the east of the site are several high density residential apartment buildings, as well as an auto title loan company, a weapons store, and other neighborhood commercial uses, zoned R-3 and C-1. To the west is a commercial shopping anchored by a hobby and crafts store, zoned C-1.

Land use policy direction for this area is provided by the *Sewell-Hudlow Neighborhood Plan (SHNP)* and *Plan Tucson*.

The goals of the *SHNP* are to preserve and protect the integrity of established low-density neighborhoods and identify appropriate locations for redevelopment. The Plan also supports efficiently designed, nonresidential developments that

minimize the number of vehicular access points and integrate vehicular and pedestrian circulation systems and other common amenities such as landscaping and buffer walls. Commercial development is supported along Broadway Boulevard, including the subject parcel, as shown on Land Use Development Maps.

The “Future Growth Scenario map” of *Plan Tucson* designates Broadway Boulevard as a mixed-use corridor, which allows for a higher intensity mix of jobs, services, and housing along major streets. *Plan Tucson* also supports a mix of high frequency transit options, as well as pedestrian and bicycle facilities. Plan policies protect residential neighborhoods by supporting compatible development (Policy LT4). Non-residential uses are supported, where the scale and intensity of use will be compatible with adjacent uses (Policy LT1). Appropriate locations for commercial uses are supported, with priority for development in the existing urbanized area and promote the use and improvement of existing infrastructure, increase pedestrian activity and transit use. Plan Guideline LT28.1.7 supports developments that preserve and strengthen the distinctive physical character and identity of individual neighborhoods and commercial districts in the community.

The proposed redevelopment site can meet the policy guidance of the *SHNP* and *Plan Tucson* with appropriate traffic mitigation measures that preserve the physical character of the low-density residential neighborhood to the north.

During the Zoning Examiner public hearing, the applicant, representatives of the Sewell Neighborhood Association, owners of the church property, and other parties met and discussed options for minimizing the impact of traffic into the neighborhood caused by the proposed development. Agreed upon changes will require modification of the site design. The proposed redesign for ingress and egress from Leonora Avenue includes a median running from Broadway Boulevard approximately to the northern boundary of the development near 10<sup>th</sup> Street. This design prevents traffic exiting the development on Leonora Avenue from traveling north into the neighborhood. The north side of that ingress/egress will be squared off to the extent possible to discourage right turns into the development. Where appropriate, the applicant will provide additional signage, as recommended by TDOT.

Although a Traffic Engineering and Impact Analysis, dated May 15, 2014, was submitted, the analysis emphasized projected traffic numbers. As was pointed out at the Zoning Examiner hearing, a baseline for current traffic conditions should be available, as well as a follow-up study to determine actual impacts of traffic from the development. As part of the development plan package the applicant shall submit an updated traffic study reflecting current traffic conditions, to be conducted over a period of three days, including one weekend day, when TUSD is in session. Six months from the date of issue of a certificate of occupancy, the applicant agrees to conduct another traffic study. Should this post-development

traffic study indicate a statistically significant increase in neighborhood traffic, as determined by TDOT, applicant agrees to provide additional mitigation and remediation, including but not limited to partial closure of the 10<sup>th</sup> Street – Leonora Avenue intersection, subject to applicable standards. Applicant shall deliver a copy of both traffic studies to the Sewell Neighborhood Association at the time of submittal to PDSD.

**CONCLUSION**

The rezoning request is consistent with the applicable *Plan Tucson* and *Sewell-Hudlow Neighborhood Plan (SHNP)* policies. Subject to compliance with staff's preliminary conditions, as revised, approval of the requested C-1 zoning is appropriate.

**RECOMMENDATION**

The Zoning Examiner recommends approval of C-1 zoning.

Sincerely,



Linus Kafka  
Zoning Examiner

**ATTACHMENTS:**

Case Location Map

Rezoning Case Map

cc: City of Tucson Mayor and Council

7/18/14

Preliminary Conditions (Revised)

### PROCEDURAL

1. A development package in substantial compliance with the development package and required reports dated 4/23/2014 is to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. "Safe by Design" concepts shall be incorporated in the development plan for review by the Tucson Police Department.
6. The owner/developer shall obtain written documentation from the Pima County Regional Wastewater Reclamation District (PCRWRD) that treatment and conveyance capacity is available for any new development within the rezoning area, no more than 90 days before submitting any tentative plat, development plan, sewer improvement plan or request for building permit for review. Should treatment and/or conveyance capacity not be available at that time, the owner/developer shall have the option of funding, designing and constructing the necessary improvements to Pima County's public sewerage system at his or her sole expense or cooperatively with other affected parties. All such improvements shall be designed and constructed as directed by the PCRWRD.
7. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning with a site inspection.

### LAND USE COMPATIBILITY

8. No direct vehicular access permitted from rezoning site onto 10<sup>th</sup> Street.

Preliminary Conditions (Revised)

9. Outdoor activities, such as restaurant patios, speakers and music which may generate noise impacts to area residents located north shall be located a minimum of fifty (50) feet from the north property line.
10. An integrated outdoor lighting plan, in compliance with the Outdoor Lighting Code (OLC), shall be included in the development plan package. The plan shall show even lighting distribution over the entire proposed site, and shall minimize spill-over light to the north.
11. The development package shall include scaled color building elevations for all sides of each building and for masonry perimeter walls. Building design shall include architectural features and design elements at the same level of detail on all elevations (side and rear elevations will be commensurate with front elevation). Wall design shall complement building design. The elevation shall be approved by Community Planning.
12. The dumpster enclosures shall be screened with a masonry wall a minimum of six (6) feet in height. Colors and materials shall be complimentary to the buildings and/or perimeter walls.
13. A six (6') foot tall masonry wall with no less than six (6) inch wide masonry block material shall be located as part of the landscape buffer along the full length of the north perimeter adjacent to 10<sup>th</sup> Street, and that portion of the east perimeter landscape buffer located north of the Leonora Avenue access entrance.
14. All required perimeter screen walls and dumpster enclosures visible from a public right-of-way and/or adjacent to existing development, are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, rustic metal, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.

DRAINAGE/GRADING/VEGETATION/HEAT ISLAND MITIGATION

15. The submittal of a drainage report/statement that addresses onsite and offsite drainage and its impact on the proposed improvements. The drainage report shall determine if runoff retention is required for this development.
16. There shall be no greater than a 10 percent surplus over the number of vehicle parking spaces required by the UDC for the proposed use. Additional spaces may be mitigated on a four to one ratio with the planting of additional native canopy trees.

7/18/14

Preliminary Conditions (Revised)

17. Owner/applicant is responsible for providing a special inspection and delivering results to PDS building code review for the following condition. Provide materials with building permit application and reference rezoning case number C9-14-03. New roofing material shall be Energy Star rated, or cool roof rated with Initial Solar Reflectance Greater than or equal to 0.65, and minimum infrared emittance to be 85% or more. Placement of and utilization of energy from solar panels on roofs is an acceptable alternative.

#### ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

18. Applicant shall submit an updated Traffic Study that reflects current traffic conditions, to be conducted over a period of three days when TUSD is in session, including one weekend day.
19. A right of way permit or a Private Improvement Agreement (PIA) with the City of Tucson Department of Transportation will be required for any work completed in the right of way, including any possible utility updates.
20. A minimum of 13 stacking spaces shall be provided for each drive through window. Alternatively, drive-through lane(s) entry points shall be located a minimum of fifty (50) feet from public street access points.
21. The installation of standard 6' width sidewalks and standard wheelchair ramps along Broadway Boulevard.
22. The installation of standard curb and sidewalk and wheelchair ramps along Leonora Avenue frontage.
23. The closure of all existing driveways that are proposed to be removed. Curb openings will be closed with new curb and sidewalks.
24. A median providing left turn access to the development and running from Broadway Boulevard approximately to the northern boundary of the development near 10<sup>th</sup> Street shall be installed by the developer, consistent with applicable standards and guidelines, prior to the issuance of the first Certificate of Occupancy.
25. Leonora Avenue access shall be designed to inhibit right-in access from southbound traffic.
26. Chip Seal Leonora from Broadway to 10th Street.
27. Developer shall provide an addendum to the Traffic Impact Statement completed by Mathieu Engineering Corp. dated May 15, 2014, documenting traffic volume at the southern point of the intersection of 10<sup>th</sup> Street and Leonora Avenue, six months after issuance of the first Certificate of Occupancy for the project. If the

Preliminary Conditions (Revised)

addendum shows a significant increase of traffic volume, as determined by TDOT, the developer shall provide additional mitigation and remediation, including but not limited to partial closure of the 10<sup>th</sup> Street – Leonora Avenue intersection, subject to applicable roadway design standards and guidelines. The addendum shall be prepared by a professional engineer registered in the State of Arizona.

AGREEMENT TO WAIVE ANY CLAIMS  
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ( "**Agreement**") is entered into between \_\_\_\_\_  
\_\_\_\_\_, as the owner of the property described herein  
 ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of  
value that may be based upon action by the City in response to a request from the  
Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at \_\_\_\_\_  
\_\_\_\_\_, Tucson, Arizona, (the "Property") which is more fully  
described in the Owner's application to the City in Case C9-14-03 and incorporated  
herein. The Owner, or the authorized agent of the Owner, has submitted an  
application to the City requesting that the City rezone the Property. The Owner has  
requested this action because the Owner has plans for the development of the  
Property that require the rezoning. The Owner believes that the rezoning of the  
Property will increase the value and development potential of the Property, and that  
this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134  
et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under  
A.R.S. §12-1134, including any claim for the reduction in the value of the Property,  
as a result of the enactment of the zoning amendment in Case C9-14-03.

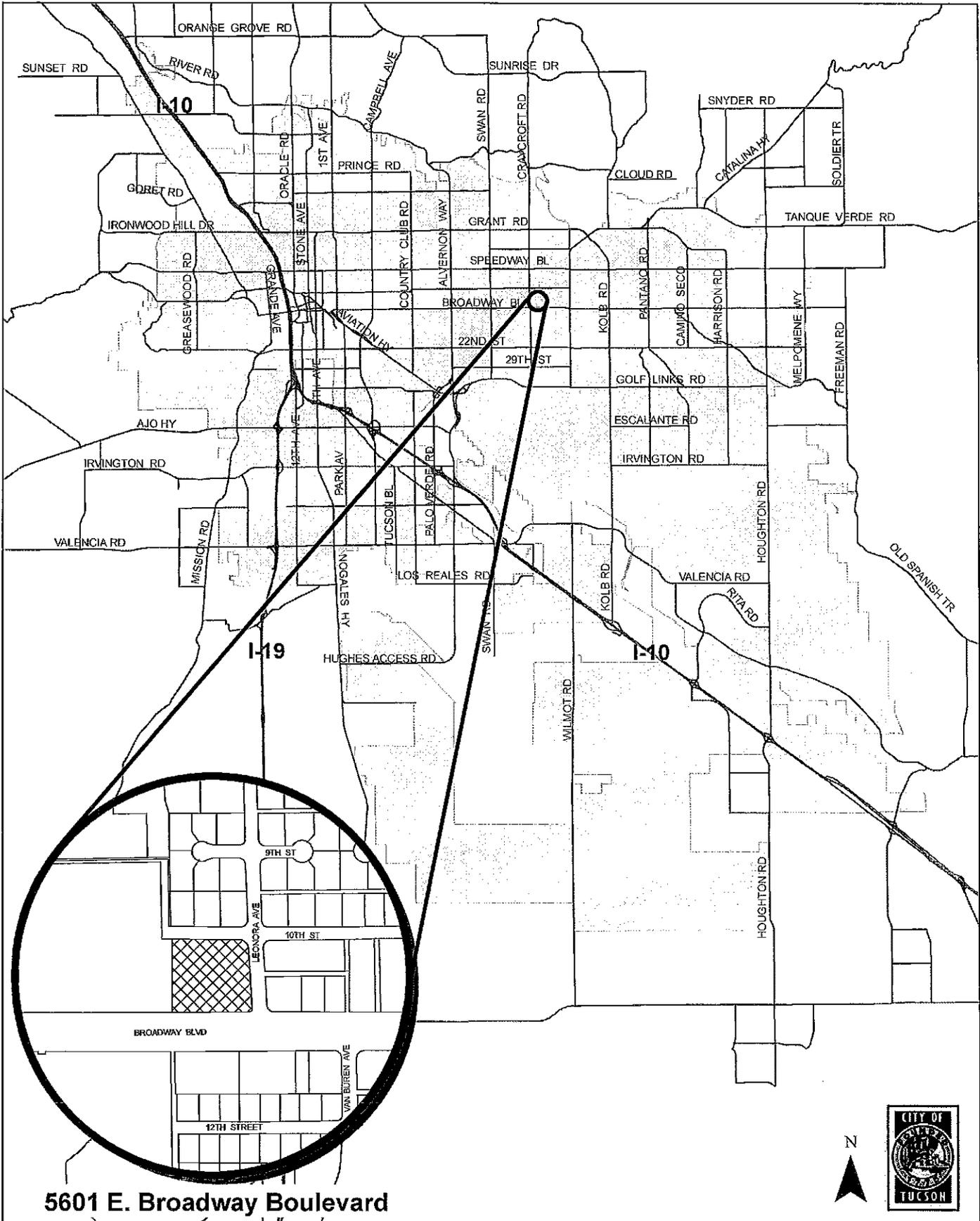
The Owner understands that City staff may propose, the Zoning Examiner may recommend  
and the Mayor and Council may adopt conditions to the requested zoning that limit  
the potential development of the Property. The Owner acknowledges that the  
rezoning and conditions are a single, integrated legislative approval. The Owner  
agrees and consents to all conditions that may be imposed. The Owner retains the  
right to withdraw the rezoning application prior to a vote by the Mayor and Council or  
to decline to implement the necessary requirements to effectuate the zoning if the  
Owner disagrees with any conditions that are proposed or approved. If the Owner  
does not withdraw the application, the Owner shall be deemed to have accepted all  
adopted conditions to the requested zoning. If the Owner withdraws the application  
or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted  
under the laws of the State of Arizona. The Owner has agreed to the form of this  
Agreement provided and approved by the City Attorney. The Owner has had the  
opportunity to consult with an attorney of the Owner's choice prior to entering this  
Agreement and enters it fully understanding that the Owner is waiving the rights and  
remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County  
Recorder.

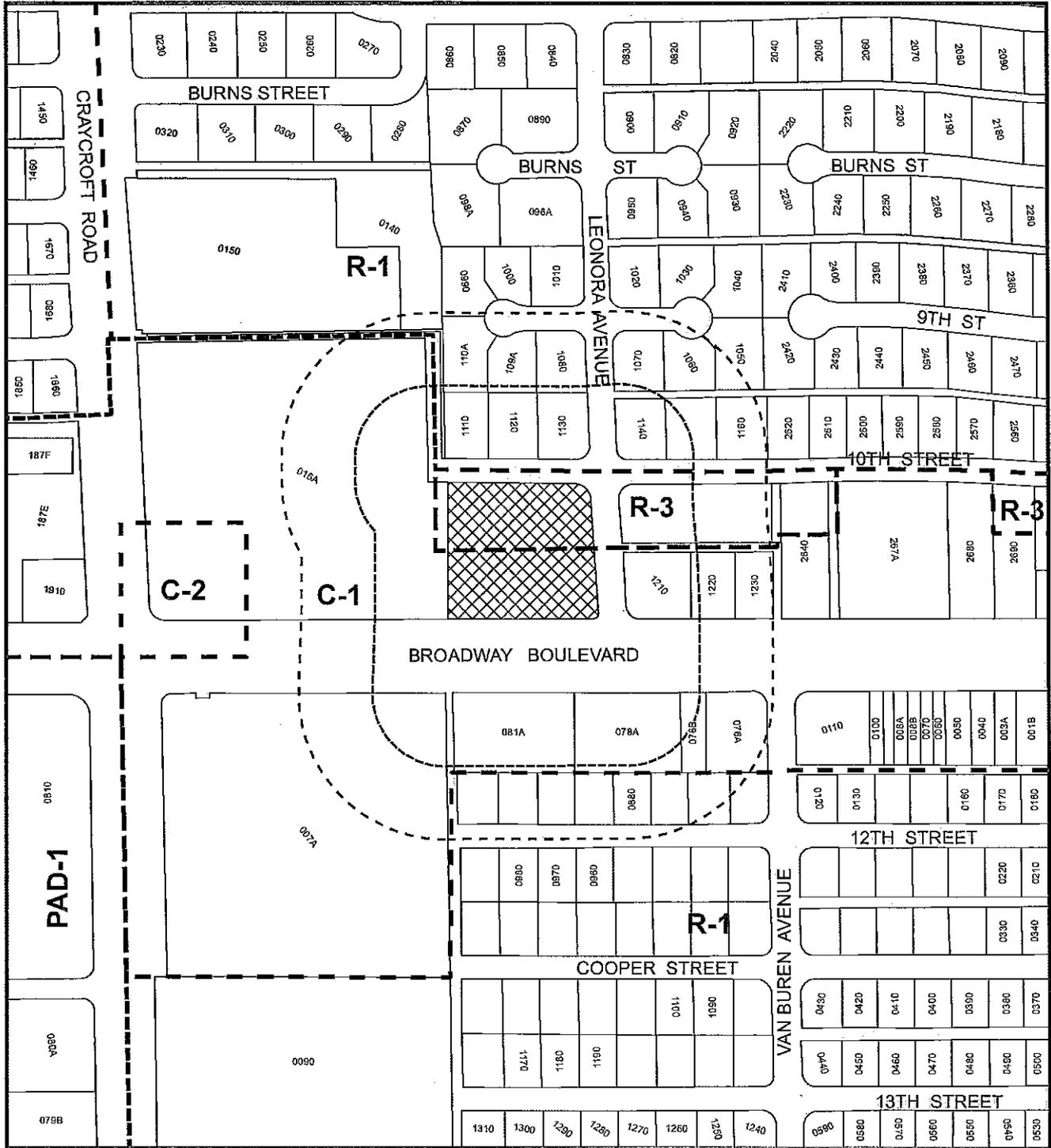


# C9-14-03 Broadway Festival - Leonora Avenue



# C9-14-03 Broadway Festival - Leonora Avenue

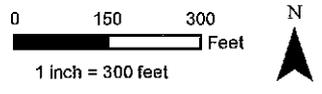
## Rezoning Request: from R-3 to C-1



- Area of Rezoning Request
- 150' Protest Area
- 300' Notification Area
- Zone Boundaries



Address: 5601 E. Broadway Boulevard  
 Base Maps: Sec.12 T.14 R.14  
 Ward: 6



created by: JR, 5/5/2014