

STAFF REPORT

Department of Metropolitan Development
Division of Planning
Current Planning Section

Case Number: 2023-ZON-024 / 2023-VAR-001 (Amended)
Address: 2802 South Holt Road (*Approximate Address*)
Location: Wayne Township, Council District #16
Petitioner: Maninder Singh
Request: Rezoning of 0.36 acre from the D-5 (FF) district to the C-4 (FF) district to provide for an automobile body repair shop.

Variance of Use and Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for:

- a. A six-foot tall perimeter chain link fence (fence height limited to 3.5 feet in front yards, chain link not permitted within front yards in Commercial Districts, chain link within side yards must be coated in vinyl within Commercial Districts);
- b. Outdoor Storage and Operations associated with automobile repair (not permitted);
- c. The temporary location of a portable storage structure, until a permanent building is constructed (limited to 30 consecutive days); and
- d. Two sliding gates within the clear sight triangles of the vehicular access drives along Farnsworth Street and Holt Road (encroachment of clear sight triangles not permitted).

October 4, 2023

At the September 6, 2023 hearing of the Metropolitan Development Commission, the petitioner requested a continuance so that the petitioner could further work with Staff to clarify the request. Subsequently, Staff met with the petitioner to discuss the request. At this meeting, it was determined that an additional continuance would be necessary to draft a new site plan and potentially amend the request which would require notice. The length of this continuance request is dependent on the petitioners ability to submit an amended site plan.

SEPTEMBER 6, 2023

At the August 16, 2023 hearing of the Metropolitan Development Commission, the petitioner requested and was granted a for cause continuance to the September 6, 2023 hearing. Staff continues to **recommend denial**.

(Continued)

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AUGUST 16, 2023

At the July 27, 2023 hearing of the Hearing Examiner, the Hearing Examiner recommended approval of the rezoning portion of this petition. However, the Hearing Examiner recommended denial of the filed variances of development standards. The petitioner filed a timely appeal of the Hearing Examiner's decision to recommend denial of the variances. Staff continues to **recommend denial**.

JULY 27, 2023

At the June 29, 2023 hearing, the petitioner requested a for cause continuance to July 27, 2023, hearing in order to provide a more descriptive site plan for review. At the time of publication, an amended site plan has not been provided. Subsequently, Staff continues to **recommend approval** of the rezoning and **denial** of the filed variances.

JUNE 29, 2023

At the May 25, 2023, hearing, the petitioner requested a for cause continuance to the June 29, 2023, hearing, in order to provide a more descriptive site plan for review. At the time of publication, an amended site plan has not been provided. The petitioner has indicated they intended to request an additional continuance in order to produce one. Subsequently, Staff continues to **recommend approval** of the rezoning and **denial** of the filed variances.

May 25, 2023

RECOMMENDATIONS

Staff **recommends approval** of the rezoning but **recommends denial** of the variances.

LAND USE ISSUES

- ◇ This 0.36-acre site is split zoned C-4 (FF) and D-5 (FF). The site is improved with a gravel parking area, a portable storage structure and six-foot tall chain-link perimeter fence topped with barbed wire. North of the subject site is a commercial structure housing a tobacco shop and a barber shop, within the C-4 District. West of the subject site are single-family dwellings within both the C-4 and D-5 Districts. To the south is a recreational playground and religious use facility within the D-5 District. East of the site is an automobile fueling station within the I-3 District.
- ◇ This site is recommended for Community Commercial development by the Comprehensive Plan and is located within its Environmentally Sensitive overlay.
- ◇ According to aerial images and Google Maps Street View, the site was previously improved with a small commercial walk-up eating establishment, including a carport structure for the associated parking. This structure was demolished around 2017.

REZONING

- ◇ The request would uniformly zone the property C-4. Currently, only a portion of the northernmost tract is zoned C-4, with the remainder of the property zoned D-5.

(Continued)

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- ◇ The C-4 District is the Community-Regional Commercial District under the Ordinance and provides for medium-intense commercial uses intended to serve the broader community rather than a specific neighborhood. Uses permitted within this district typically generate substantial traffic and rely on access to major thoroughfares and are typically characterized by indoor operations with limited outdoor activities.
- ◇ The comprehensive plan's Community Commercial recommendation is generally reflective of the C-4 District. Specifically, it is intended to provide for low-intensity commercial and office uses that serve nearby neighborhoods through freestanding buildings or small integrated centers.
- ◇ This site is also within the Environmentally Sensitive overlay of the comprehensive plan. This overlay is intended to preserve high quality woodlands, wetlands or other natural resources and mitigate damage to such resources by development. This overlay specifically indicates which land uses may not be appropriate within it. The proposed use, on a site of this size, is not excluded from the recommendation. Therefore, the rezoning request would align with the Comprehensive Plan recommendation.
- ◇ As filed, the request would provide for the operation of an automobile body repair shop, which is permitted within the C-4 District. This use requires that all servicing, motor repair, or body repair be conducted within an enclosed building. Within the C-4 District, vehicles awaiting repair may not be stored outdoors for longer than 24 hours, as outdoor storage and operations begin to be permitted within the C-5 District.

VARIANCES

- ◇ As proposed, the site would utilize the existing portable storage structure for the storage of tools associated with automobile repair, and the construction of a shed for the storage of automobile parts and other accessories related to the business. Such structures are not permitted in order to promote an orderly aesthetic. Repairs would be conducted outdoors until a permanent structure can be constructed.
- ◇ There is currently a six-foot tall chain link perimeter fence, including gated access to Farnsworth Street and Holt Road, with barbed wire on the site. Given the lack of a building on the site, a six-foot tall fence would not be permitted on the site. Barbed wire fences are prohibited by the zoning ordinance except for facilities associated with public safety or prisons and jails. The vehicle gates are also within the access drive clear sight triangles.
- ◇ Fence height limitations are intended to promote an orderly aesthetic and uniform streetscape as fences of such height can appear industrial in nature. The clear sight triangle is intended to preserve visibility and promote safety by reducing the risk for vehicular-pedestrian collisions.
- ◇ The request also would allow for the use of a gravel parking area. All commercial districts require hardscaped surfaces for parking areas, in order to avoid the circulation of dust particulate and ensure predictable drainage.

(Continued)

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- ◇ Staff believes that the proper, orderly development of the site, including construction of a freestanding building is not only appropriate in the context of the district, but would eliminate any practical difficulty. In Staff's opinion, any practical difficulty associated with the site is self-imposed due to the reluctance to develop this vacant site in compliance with minimum expectations associated with the C-4 District.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

C-4, D-5	Commercial structure, vacant
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SURROUNDING ZONING AND LAND USE

North -	C-4	Tobacco Shop and Barber Shop
South -	D-5	Playground
East -	I-3	Automobile Fueling Station
West -	C-4, D-5	Single-family dwellings

COMPREHENSIVE LAND USE PLAN

The Land Use Pattern Book (2019) recommends Community Commercial development.

THOROUGHFARE PLAN

This portion of Farnsworth Street is classified as a Local Street with an existing and proposed 58-foot right-of-way. This portion of Holt Road is classified as a Primary Arterial with an existing and proposed 95-foot right-of-way.

CONTEXT AREA

This site is located within the Compact Context Area.

SITE PLAN

File-dated April 28, 2023.

ZONING HISTORY

None.

EDH

Findings of Fact:

Petition Number 2023-ZON-024 / 2023

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA**

PETITION FOR VARIANCE OF DEVELOPMENT STANDARDS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:

Allowing a taller 6 ft fence, even though it's more than the usual 3.5 ft for C4 zoning, won't harm people's health, safety, or well-being in the community.

The proposed fence height might not fit with the current plan, but it's important to make the property safer, especially after a past theft. Putting up a taller fence not only makes the petitioner's property more secure but also helps to keep the whole community safe by discouraging criminals.

If thieves see that properties in the neighborhood are well-protected and tough to get into, they might think twice about trying to commit crimes in the area.

Also, because the property is next to an I3-zoned area where there are heavier industrial activities, having a taller fence makes a lot of sense.

2. The use or value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because:

* The higher 6 ft fence fits well with the surrounding industrial area and doesn't spoil the look or view of the place.

* The fence looks good and is built well, so it adds to the overall look of the neighborhood.

* Because it makes the property safer and clearly marks where the residential area starts and the commercial area ends, the fence helps keep the neighborhood peaceful.

* So, allowing a higher fence won't harm the use or value of properties nearby. Instead, it helps create a safer and better-defined neighborhood.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property because:

If the petitioner has to stick to the rule of only having a 3.5 ft fence, it would create problems. The petitioner's property, which often houses expensive vehicles for personal use and repair, has been a target of theft in the past, highlighting the need for a higher fence to safeguard these valuable assets. Besides the security concerns, the property is located next to an industrially zoned area, making a taller fence necessary to clearly mark boundaries. Therefore, without the allowance for a higher fence, it could interfere with the petitioner's ability to protect their assets and use their property securely and comfortably.

DECISION

IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____

Findings of Fact:

Petition Number _____

**METROPOLITAN DEVELOPMENT COMMISSION
HEARING EXAMINER
METROPOLITAN BOARD OF ZONING APPEALS, Division _____
OF MARION COUNTY, INDIANA**

PETITION FOR VARIANCE OF USE

FINDINGS OF FACT

1. THE GRANT WILL NOT BE INJURIOUS TO THE PUBLIC HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE COMMUNITY BECAUSE

Granting the variance for outdoor storage and open-air work will not harm the community's health, safety, or general well-being. The petitioner plans to store vehicles securely within a 6 ft fence and will further enhance security with camera surveillance. Work hours will be respectful to the community (9 am to 5 pm), with regular maintenance and cleaning of the site to minimize noise and visual impact. The petitioner has a waste disposal strategy in place to protect the environment and plans to construct a building within the next 4-5 years to further improve the site. Given the property's industrial surroundings, these measures align with the character of the area and demonstrate a commitment to community standards.

2. THE USE AND VALUE OF THE AREA ADJACENT TO THE PROPERTY INCLUDED IN THE VARIANCE WILL NOT BE AFFECTED IN A SUBSTANTIALLY ADVERSE MANNER BECAUSE

Granting the variance for outdoor storage and open-air work won't negatively impact the use or value of the neighboring properties. The activities align with the industrial character of the surrounding D-zoned area, ensuring compatibility. The petitioner is committed to managing noise, visuals, and waste, maintaining a clean site and limiting work hours to respect the community's tranquility. A secure 6ft fence will be installed for privacy and boundary delineation. The petitioner's plans to construct a building within the next 4-5 years demonstrate a commitment to improving the property, which can enhance the overall value of the neighborhood.

3. THE NEED FOR THE VARIANCE ARISES FROM SOME CONDITION PECULIAR TO THE PROPERTY INVOLVED BECAUSE

The need for the variance arises from the petitioner's intention to construct a building on the property in 4 to 5 years. During this initial period, the petitioner seeks to familiarize themselves with the area and establish a client base before making a significant investment in constructing a permanent structure. The variance allows for temporary outdoor storage and open-air work, providing the flexibility needed to operate efficiently and assess the suitability of the property for their business. Therefore, the variance is specifically driven by the petitioner's strategic approach and the need to adapt to the unique circumstances of their long-term plans.

4. THE STRICT APPLICATION OF THE TERMS OF THE ZONING ORDINANCE CONSTITUTES AN UNUSUAL AND UNNECESSARY HARDSHIP IF APPLIED TO THE PROPERTY FOR WHICH THE VARIANCE IS SOUGHT BECAUSE

If we strictly follow the rules of the zoning ordinance for the property, it would create unusual and unnecessary difficulties. The property doesn't currently have a suitable building for our work, and complying with the ordinance would make it very challenging for us to operate. It would cause financial hardship and might even force us to delay our operations or find a different location. Considering the industrial nature of the area and our efforts to address any potential issues, granting the variance would be a fair and practical solution that doesn't harm the community or neighboring properties.

5. THE GRANT DOES NOT INTERFERE SUBSTANTIALLY WITH THE COMPREHENSIVE PLAN BECAUSE

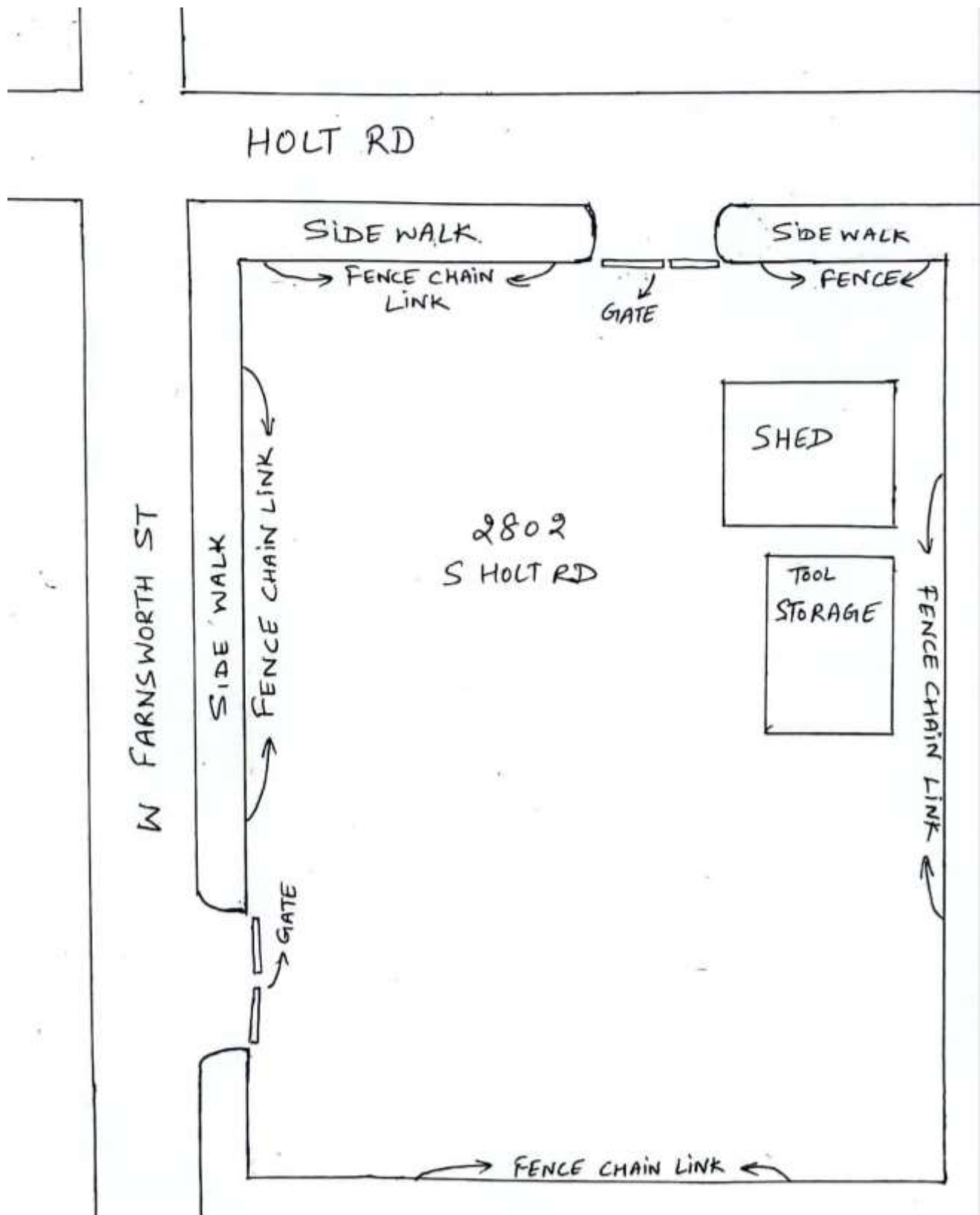
The grant does not interfere substantially with the comprehensive plan because it supports the community's economic growth and aligns with future development goals. The variance is temporary and respects the plan's vision, as the petitioner plans to build a permanent structure in the future. The grant addresses the property's specific needs without compromising the plan's overall objectives. Measures are in place to minimize any potential disturbances, like noise or waste, showing a commitment to responsible practices. Overall, the variance respects the comprehensive plan while benefiting the community's development.

DECISION

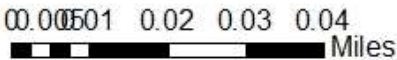
IT IS THEREFORE the decision of this body that this VARIANCE petition is APPROVED.

Adopted this _____ day of _____, 20 ____

Site Plan (April 28, 2023):



Vicinity Map:



Photographs:



Photo One: Facing North along Holt Road.



Photo Two: Facing West South along Holt Road. Automobile fueling station on left.



Photo Three: Facing West along Farnsworth Street, subject site on left.



Photo Four: Facing West across Holt Road towards subject site.



Photo Five: Facing South along Holt Road. Subject site on right.



Photo Six: Vehicle Gate along Farnsworth Street, with barbed wire.



Photo Seven: Southern lot along abutting playground.



Photo Eight: Western lot line, adjacent to single-family dwellings.