

## STAFF REPORT

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

**Case Number:** 2023-UV3-015  
**Address:** 3545 North Shadeland Avenue (approximate address)  
**Location:** Warren Township, Council District #13  
**Zoning:** C-4  
**Petitioner:** Hobby Shop Paint & Collision Corp., by Andrew Wert  
**Request:** Variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to provide for the location of an outdoor storage trailer and a six-foot tall fence and dumpster within the front yards of Twin Oaks Drive and Shadeland Avenue (outdoor storage not permitted, fence height limited to 3.5-foot tall within front yards, dumpster enclosures not permitted within front yard).

This petition was continued for cause at the request of the petitioner, from the July 18, 2023, hearing, to the August 15, 2023, hearing.

### **RECOMMENDATIONS**

Staff **recommends denial** of this petition.

### **SUMMARY OF ISSUES**

#### **LAND USE**

##### EXISTING ZONING AND LAND USE

C-4	Automotive body and paint shop
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##### SURROUNDING ZONING AND LAND USE

North -	C-4	Automotive sales
South -	C-4	Motel
East -	C-4	Commercial retail / office
West -	C-4	Automotive body and paint shop

COMPREHENSIVE PLAN	The Comprehensive Plan recommends Community Commercial uses for this site.
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#### **VARIANCE OF USE**

- ◇ The proposed use would provide an outdoor storage trailer, associated with an automotive body and paint repair facility.
- ◇ The request would not be consistent with the Comprehensive Plan recommendation of community commercial typology and would, in fact, be an inappropriate intensification of the current commercial uses.

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## **STAFF REPORT 2023-UV3-015 (Continued)**

- ◇ The Comprehensive Plan recommends community commercial typology. “The Community Commercial typology provides for low-intensity commercial, and office uses that serve nearby neighborhoods. These uses are usually in freestanding buildings or small, integrated centers. Examples include small-scale shops, personal services, professional and business services, grocery stores, drug stores, restaurants, and public gathering spaces.”
- ◇ The Pattern Book lays out a land use classification system that guides the orderly development of the county, protects the character of neighborhoods, and serves as a policy guide for development or redevelopment of a site.

- ◇ The following elements of the Pattern Book apply to this site:

### *Conditions for All Land Use Types*

- All land use types except small-scale parks and community farms/gardens in this typology must have adequate municipal water and sanitary sewer.
- All development should include sidewalks along the street frontage.

*Conditions for Small-Scale Offices, Retailing, and Personal or Professional Services (defined as commercial uses with minimal outdoor operations, storage, or display on lots of less than 1.5 acres and a height of less than 35 feet).*

- **Outdoor display of merchandise should be limited.**
- **If adjacent to residential uses or a Living Typology, outdoor display of merchandise is not recommended.**
- Should be located along an arterial or collector street.
- If proposed within one-half mile along an adjoining street of an existing or approved residential development, then connecting, continuous pedestrian infrastructure between the proposed site and the residential development (sidewalk, greenway, or off-street path) should be in place or provided.

- ◇ The outdoor storage trailer is a shipping container box, as seen in staff photos #3-4, and not intended to be used as a permanent storage shed. Permanent commercial accessory structures have a compatible form and are regulated by the Building Code. The proposed portable storage container does not have a compatible form and is not regulated by the Building Code.
- ◇ Staff believes that this request, if approved, would detract from a streetscape that is already overburdened with a number of existing businesses possessing poorly maintained outdoor storage.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned C-4 and could be used for any number of uses permitted by right in the C-4 zoning classification without the need for a variance of use. Any hardship would be self-imposed by the desire to use the site for an outdoor storage trailer.

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## **STAFF REPORT 2023-UV3-015 (Continued)**

### **VARIANCE OF DEVELOPMENT STANDARDS**

- ◇ This request would also provide for a six-foot tall fence within the front yards of Twin Oaks Drive and Shadeland Avenue, and a dumpster within the front yard of Twin Oaks Drive.
- ◇ The Consolidated Zoning and Subdivision Ordinance limits the height of a fence in the front yard to 42 inches. In this case, the lot is a corner lot that has two front yards, along North Shadeland Avenue and Twin Oaks Drive.
- ◇ The purpose of the limitation in fence height in the front yard is to create an open appearance and prevent canyonization of the streetscape. Additionally, this six-foot tall fence is not consistent with the open character of surrounding commercial properties, nor is it consistent with existing fences on adjacent properties.
- ◇ The site and nearby properties do not have topographical variations which would justify a fence height in excess of the Ordinance requirements. Furthermore, there are existing fences on adjacent properties, all of which comply with the Ordinance. Consequently, the strict application of the Ordinance standards would not result in a practical difficulty in the use of the property.
- ◇ The need for a dumpster within the front yard of Twin Oaks Drive is a self-imposed hardship, as the dumpster could be located to the rear of the building, east of the repair garage. This is the location of the proposed outdoor storage trailer. If the site was to be zoning compliant with no outdoor storage and the trailer removed, the dumpster could then be relocated to this area and be zoning compliant as well.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since a zoning complaint fence can be installed without a variance, and the dumpster enclosure could be located on site without needing a variance. Failure to do so is self-imposed by the petitioner's desire not to follow the Ordinance.

### **GENERAL INFORMATION**

THOROUGHFARE PLAN	This section of North Shadeland Avenue is designated in the Marion County Thoroughfare Plan as a primary arterial, with a 138-foot existing and proposed right-of-way  This section of Twin Oaks Drive is designated in the Marion County Thoroughfare Plan as a local street, with a 60-foot existing and proposed right-of-way.
SITE PLAN	File-dated June 12, 2023.
PLAN OF OPERATION	File-dated June 12, 2023.
FINDINGS OF FACT	File-dated June 12, 2023.

(Continued)

## **STAFF REPORT 2023-UV3-015 (Continued)**

### **ZONING HISTORY**

**2015-UV2-029; 3701 North Shadeland Avenue (north of site)**, requested a variance of use of the Commercial Zoning Ordinance to legally establish an automobile paint and body shop, **granted**.

**2014-DV3-056; 7171 Twin Oaks Drive (north of site)**, requested a variance of development standards of the Sign Regulations to provide for an off-site, 5.5-foot tall freestanding sign, within the right-of-way of Twin Oaks Drive, for an existing multi-family development, **granted**.

**2014-DV3-015; 3545 North Shadeland Avenue (subject site)**, requested a variance of development standards of the Commercial Zoning Ordinance to provide for a temporary outdoor storage area, **granted**.

**2000-UV3-038; 3704 North Shadeland Street (north of site)**, requested a variance of use of the Commercial Zoning Ordinance to provide for the sales, display, and service of automobiles, **granted**.

**99-Z-92; 3702 North Shadeland Avenue (northwest of site)**, requested the rezoning of 5.2 acres from the D-3 classification to the C-S classification to provide for a plumbing contracting business, limited Commercial-Industrial uses, and all C-4 uses, excluding all adult uses, **approved**.

**98-Z-118; 3701 North Shadeland Avenue (north of site)**, requested rezoning of 1.5 acres from the C-4 District, to the C-5 classification to provide for automotive related service businesses, **withdrawn**.

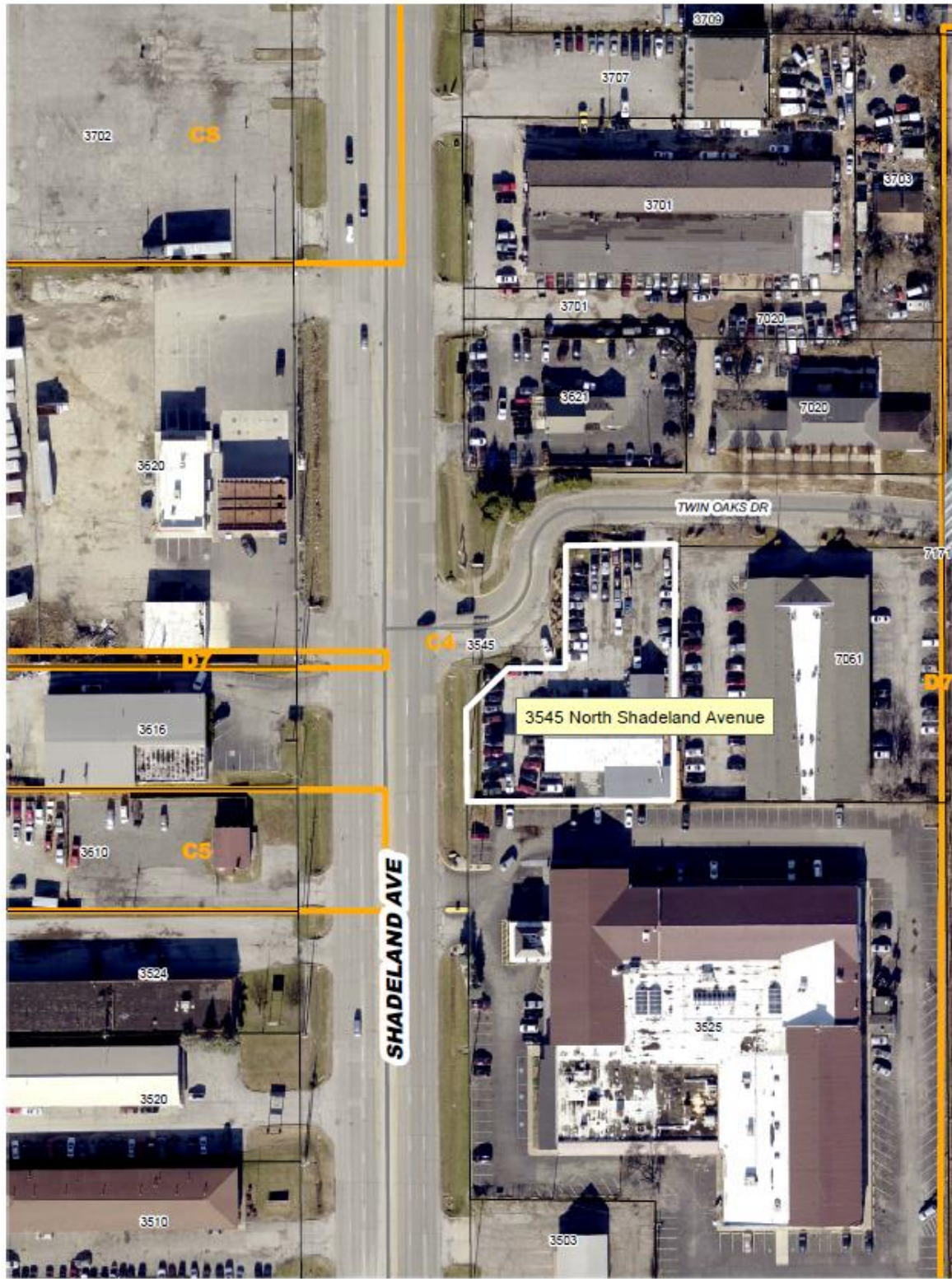
**98-UV1-78; 3701 North Shadeland Avenue (north of site)**, requested a variance of use and development standards of the Commercial Districts Zoning Ordinance to provide for an automotive repair, paint, and body facility with one-sided dumpster enclosure and a single-family dwelling, **denied**.

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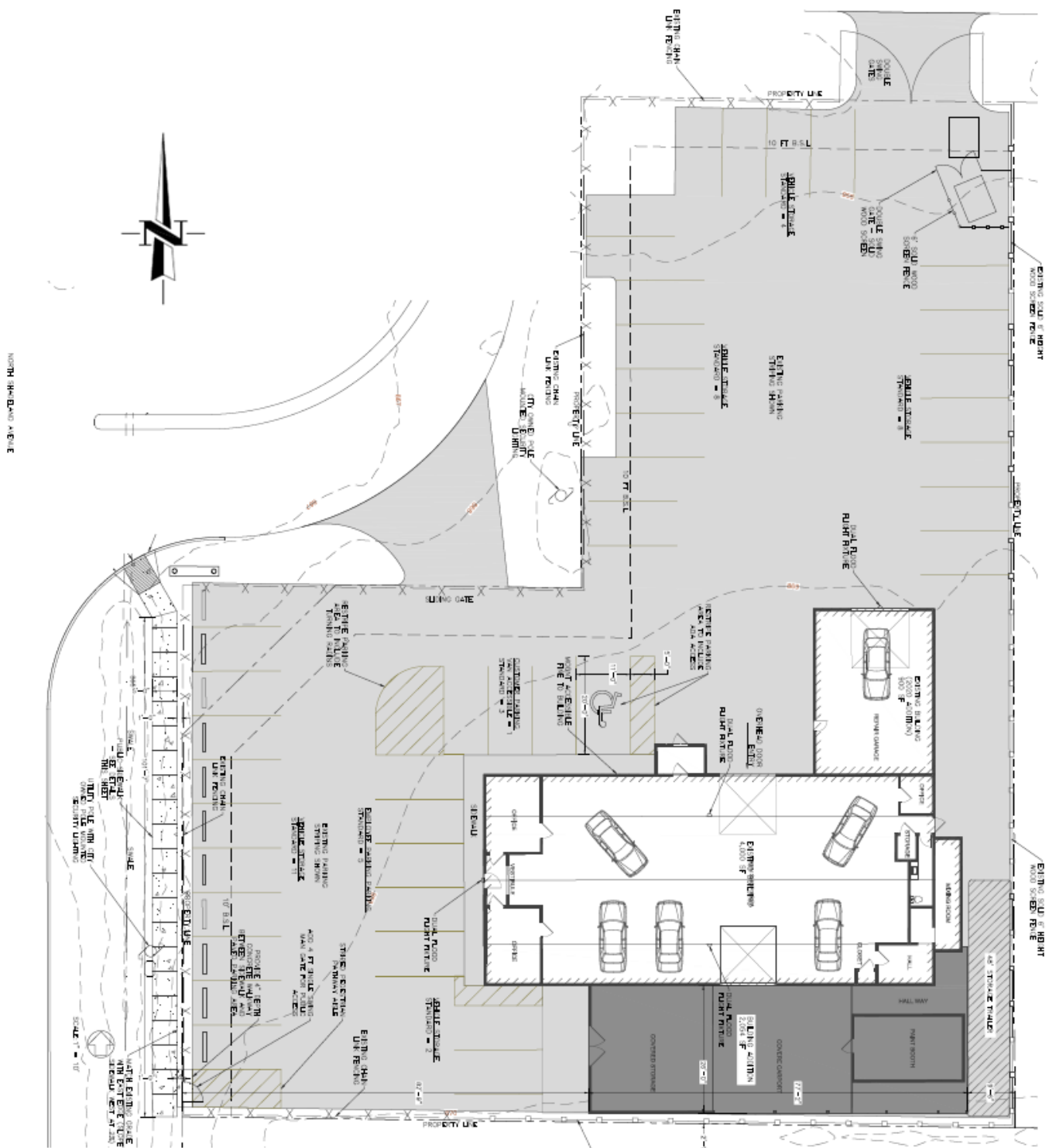
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**STAFF REPORT 2023-UV3-015 (Continued)**

**2023-UV3-015: Location Map**



2023-UV3-015: Site Plan



## **Plan of Operation**

### **Hobby Shop Paint & Collision, Variance petitions**

3545 North Shadeland Avenue

Hobby Shop Paint & Collision is an automobile body shop operating at 3545 North Shadeland Avenue. They have been in business at this location since 2021. They employ six (6) individuals. The hours of operation are 9am to 6pm, Monday through Saturday. The only hazardous materials stored on site are paint and lacquer thinner.

The owner has filed a Variance of Use petition to allow a 48-foot storage trailer to remain at the rear of the property. This trailer is screened from view of Shadeland Avenue by the existing building. Additionally, it is screened from the east and south by an existing 6-foot solid wood fence. The trailer will store automobile parts. It will not contain any hazardous materials. The trailer's presence falls under the definition of Heavy Outdoor Storage, which is prohibited in the C4 zoning district.

A companion petition has been filed for a development standards variance to permit a 6-foot chain-link fence in the front yard. The zoning ordinance limits fences in the front yard to 3.5 feet in height. The fence is necessary to inhibit theft and vandalism on the site.

**2023-UV3-015: Photographs**



#1 - View of subject site Shadeland frontage looking east



#2 - View of subject site Twin Oaks Drive frontage looking east



#3 - View of outdoor storage container, looking south.



#4 – View of outdoor storage container, looking west.



#5 - View of six-foot fence in front yard of Shadeland Avenue, looking south



#6 - View of six-foot fence in front yard of Twin Oaks Drive, looking south



#7 - View of six-foot fence in front yard of Twin Oaks Drive, looking west



#8 - View of dumpster in front yard of Twin Oaks Drive, looking south.



#9 - Adjacent automotive commercial uses to the west of site



#10 - Adjacent automotive sales use to the north of site, looking east.



#11 - Adjacent commercial uses to the east of site, looking south.



#12 - Adjacent commercial uses to the south of site, looking east.