



## BOARD OF ZONING APPEALS DIVISION II

May 21, 2024

**Case Number:** 2024-UV2-005  
**Address:** 4925 West Southport Road (approximate address)  
**Location:** Decatur Township, Council District #21  
**Zoning:** D-A  
**Petitioner:** Estrada Siding LLC, by Dan Jackson  
**Request:** Variance of use of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a commercial contractor including the outdoor storage of commercial vehicles and supplies (not permitted).

**Current Land Use:** Single-family dwelling

**Staff Recommendation:** Staff recommends denial of this petition.

**Staff Reviewer:** Robert Uhlenhake, Senior Planner

## PETITION HISTORY

This petition was continued from the April 9, 2024, hearing to the May 21, 2024, hearing, in order to meet the legal notice requirements.

## STAFF RECOMMENDATION

Staff recommends **denial** of this petition.

## PETITION OVERVIEW

- ◇ The request would provide for the operation of a commercial contractor including the outdoor storage of commercial vehicles and supplies
- ◇ The Comprehensive Plan recommends rural, or estate neighborhood uses for the subject site. The proposed use would be permitted in the C-7, High Intensity Commercial Zoning District. The C-7 district is designed to provide for specific areas for retail commercial uses which have unusually incompatible features relative to other commercial uses such as major outdoor storage or display of sizeable merchandise and the outdoor parking and maintenance of trucks or equipment essential to the operation of these uses. Because of the character and intensity of these uses, this district should be appropriately located on major commercial arterial thoroughfares where the gradual and reasonable transition from lesser commercial uses exist. Due to the intensity of the uses, the location of this district adjacent to protected districts should be avoided.
- ◇ The purpose of the D-A district is to provide for a variety of agricultural enterprises, with a secondary intent for the development of large estate or rural single-family dwellings. Because no agricultural enterprise exists on the subject site, development of the site would be considered for a rural single-family dwelling.



- ◇ Given the increase in intensity between the existing zoning and the proposed use, including the number of commercial vehicles as outdoor storage, approval of this request would over-develop the site and facilitate the intrusion of heavy commercial uses into an established residential rural neighborhood. The request would encourage additional encroachment, in a manner violating the development norms and residential aesthetics of the street, and squarely deviating from the recommendations of the Comprehensive Plan.
- ◇ The strict application of the terms of the zoning ordinance does not constitute a practical difficulty for the property, since the site is zoned D-A and could be used by any number of uses permitted, by right, in the D-A zoning classification. Any practical difficulty is self-imposed by the desire to use the site for operation of a construction contractor, including the on-site storage of commercial vehicles and supplies associated with the use.
- ◇ The subject site is similar in size to other nearby properties, that are able to follow the comprehensive plan and zoning ordinance without the need for variances. Therefore, the Comprehensive Plan recommendation should not be disregarded, nor of the clearly residential nature of the surrounding area. For these reasons, staff recommends its denial.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	D-A	
<b>Existing Land Use</b>	Single-Family Dwelling	
<b>Comprehensive Plan</b>	Rural or Estate Neighborhood uses	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Surrounding Context</b>
	North:	D-3 Single-Family dwellings
	South:	D-A Single-Family dwelling
	East:	PK-1 Southwestway Park
	West:	D-A Single-Family dwellings

<b>Thoroughfare Plan</b>		
West Southport Road	Primary Arterial	45-foot existing right-of-way and a 119-foot proposed right-of-way.
<b>Context Area</b>	Metro area	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	N/A	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	March 11, 2024	
<b>Elevations</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	January 30, 2024	



**COMPREHENSIVE PLAN ANALYSIS**

**Comprehensive Plan**

- The Comprehensive Plan recommends rural, or estate uses for the site.

**Pattern Book / Land Use Plan**

- The Marion County Land Use Plan Pattern Book recommends the Rural or Estate Neighborhood typology applies to both rural or agricultural areas and historic, urban areas with estate-style homes on large lots. In both forms, this typology prioritizes the exceptional natural features – such as rolling hills, high quality woodlands, and wetlands – that make these areas unique. Development in this typology should work with the existing topography as much as possible. Typically, this typology has a residential density of less than one dwelling unit per acre unless housing is clustered to preserve open space.

**Red Line / Blue Line / Purple Line TOD Strategic Plan**

- Not Applicable to the Site.

**Neighborhood / Area Specific Plan**

- Not Applicable to the Site.

**Infill Housing Guidelines**

- Not Applicable to the Site.

**Indy Moves**  
(Thoroughfare Plan, Pedestrian Plan, Bicycle Master Plan, Greenways Master Plan)

- Not Applicable to the Site.

**ZONING HISTORY**

**2008-DV1-056; 7041 Mann Road (south of site)**, requested a variance of Development Standards of the Dwelling Districts Zoning Ordinance to provide for the construction of a 128-square foot deck, resulting in an accessory use area of 3,104 square feet or 105.76 percent of the total living area of the primary structure, **granted**.

**2000-ZON-146; 7010-7016 Mann Road (west of site)**, requested the rezoning of 4.5 acres from D-A to C-4 to provide for commercial uses, **withdrawn**.

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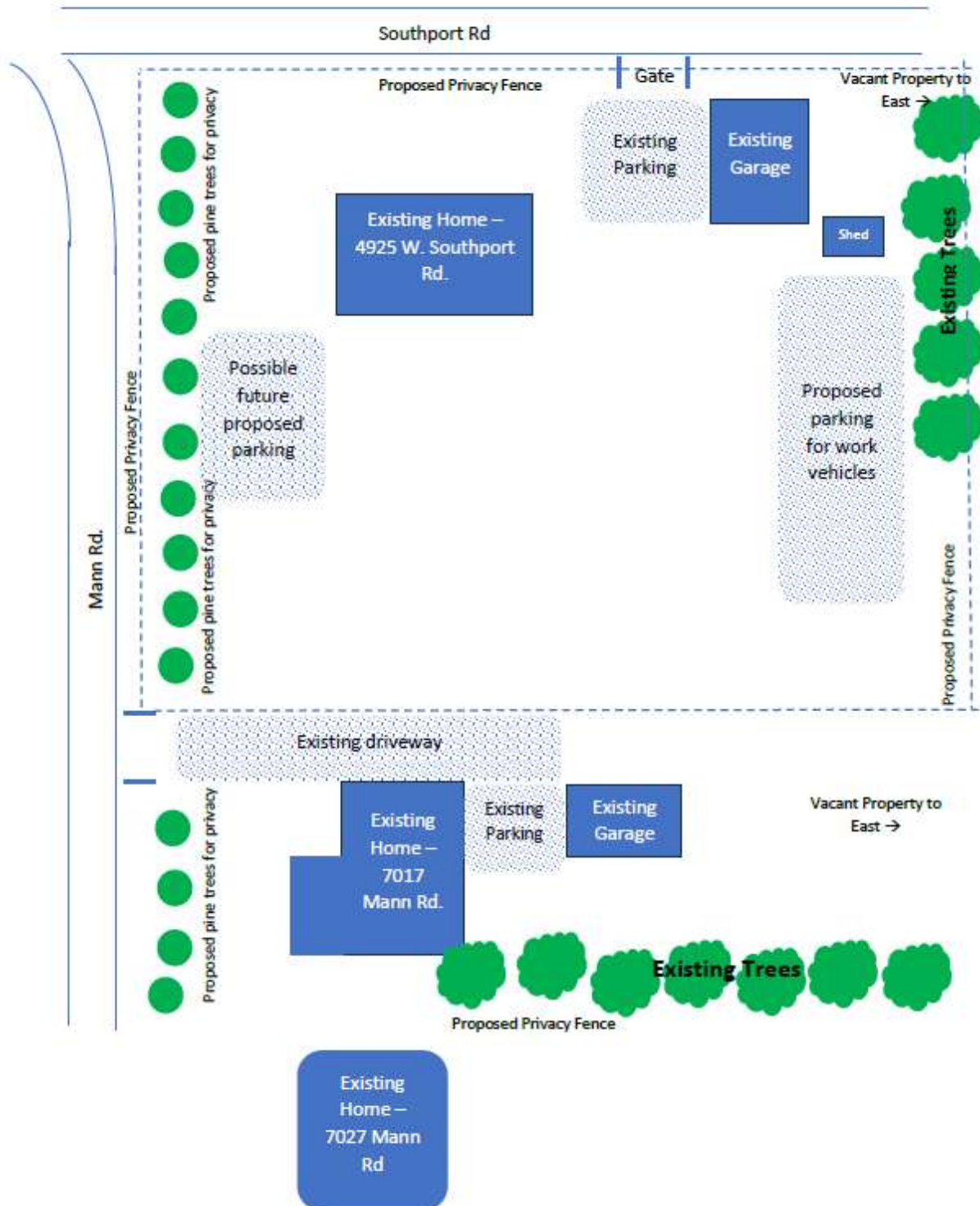
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**EXHIBITS**

**Location Map**



Site Plan





**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

There will be no commercial business activities which involve manufacturing, hazardous waste, or any industrial waste.  
The parking of commercial vehicles and storage of limited amounts of non-hazardous, standard siding material poses no public health or safety issue.

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

The land will be beautified with additional trees and a large privacy fence keeping commercial vehicles and materials out of sight of any neighbors. There is one house directly to the south of this property, but there is a vacant field to the east. The area nearby is not crowded with many homes, making any negative impact very minimal.

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

The property is currently zoned residential and the parking of commercial vehicles and limited storage is not allowed under current zoning.

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

The parking of a few commercial vehicles limited storage of siding supplies when combined with additional privacy shrubs and a large privacy fence around the perimeter of the property poses no significant detriment to the limited number of property owners who live nearby.

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

Petitioner is not aware of the Comprehensive Plan and therefore cannot speak to this point.

## Plan of Operation

### Plan of Operation

For the property on 4925 W. Southport Road, the owner is proposing the following plan of operation.

The primary activities to be carried out on this property are as follows:

1. Overnight parking of commercial vehicles, mostly cargo vans that are used for the purposes of carrying out a siding business.
2. Limited staging of siding supplies needed for the next day's work.
3. The schedule for such parking activities would be overnight and over the weekend, mostly Sunday.
4. The traffic of the trucks would be heaviest to coincide with the morning rush hour traffic as they depart for jobs and then return around the end of daylight each day. Jobs are such that in the trucks would likely not come in all at the same time, but rather, in a staggered manner which would minimize traffic.
5. The plan is to keep all existing vegetation, especially the large, mature trees on-site. In addition, plan would be to add a large wooden privacy fence and additional privacy shrubs or evergreen type trees (such as Arborvitae) to add natural beauty and minimize the visibility of the trucks and limited supplies that will be on-site.
6. All waste from siding jobs will be disposed of at the site of each particular job. There will be no waste disposed of or kept at the site.
7. Due to the nature of each job, there will likely be very little to no customer traffic to this site as all estimates and inspections are done with the customer at each individual project site.

In summary, the primary intent is to have parking for commercial trucks (mainly cargo vans) and limited storage or staging of supplies needed for jobs that will be carried out in short order.

**Photographs**



Photo of the Subject Property existign single-family dwelling, looking east



Photo of the existing garage and proposed parking for truck vehicles on gravel. Looking northeast.





Photo of adjacent single-family dwelling to the north.



Photo of adjacent single-family dwelling to the west.