



## CITY COUNCIL AGENDA ITEM

**To:** Mayor Graham and City Council  
**From:** Ted Shekell, Planning Director  
Walter Denton, City Administrator  
**Date:** February 18, 2014  
**Subject:** ZHO2013-10: Schaefer Autobody Center, Use Variance – 1<sup>st</sup> Reading

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**List of committees that have reviewed:** The Zoning Hearing Officer held a public hearing on the above referenced application at the January 28, 2014 meeting. The Zoning Hearing Officer provided the Finding of Facts and Recommendation to the City on January 31, 2014. The Zoning Hearing Officer has recommended the City Council deny the requested use variance for Schaefer Autobody Center. The Community Development Committee reviewed this application at its February 10, 2014 meeting and unanimously recommended it for approval.

### **Background**

The petitioner is seeking a variance to allow the reuse of the former Subaru dealership building located at 1290 Central Park Drive as an automotive repair and body/collision shop (Schaefer Auto Body Center), which is not an allowed use in the B-1 Community Business District. The typical process to locate a business in an area not currently zoned for the proposed use would be to apply and go through the process of a rezoning. However, in this particular circumstance, rezoning the subject property to B-2 General Business District would potentially result in “spot zoning”, as the entire corridor of Central Park Drive is zoned B-1 Community Business District.

There is a high standard to meet in approving a use variance; it is a difficult test and can only be approved when: (1) failure to authorize the use denies all economically viable use of the property or (2) similar extreme hardship is demonstrated by the evidence presented.

**Since the Zoning Hearing Officer has recommended the City Council deny the use variance, the City Ordinance states that “the use variance shall not be approved, except by the favorable vote of two-thirds of all Council members.”**

Please see the attached Zoning Hearing Officer Project Report for more detailed information on the proposal.

**Legal Considerations, if any:** None

**Budget Impact:** None

### **Recommendation**

The Zoning Hearing Office, based on the Findings of Fact (attached), recommended the City Council **DENY** the use variance for the Petitioner.

If two-thirds of all City Council members find that all economically viable use of the property is lost without the variance, then staff believes the petitioner has provided an appropriate site plan and provides the necessary screening to reduce the impact of a B-2 District use in a B-1 Community Business District. Additionally, if the City Council finds in favor of the petitioner, staff would recommend the following conditions of approval:

1. The installation of the fencing must be completed prior to the commencement of the autobody shop.
2. All vehicle storage shall be located within the screened area.
3. All outdoor storage shall be located within the screened area.
4. No outdoor storage shall exceed the height of the fence.
5. All hazardous materials associated with the body shop must be handled in accordance with all local, state and federal regulations.
6. The use variance shall not transfer to future property owners of the site. If the property were to be sold to a different automotive repair facility, the future user of the property would be subject to the B-1 Community Business District and shall be required to submit and proceed through the use variance process.