

**METROPOLITAN DEVELOPMENT COMMISSION  
HEARING EXAMINER**

March 27, 2025

**Case Number:** 2025-CAP-808 / 2025-CVR-808 (Amended)

**Property Address:** 4360 North Keystone Avenue

**Location:** Washington Township, Council District #8

**Petitioner:** Emay Ayad, by Russell Brown

**Current Zoning:** C-5 (FF) (W-1)  
Modification of Commitments, related to 2019-ZON-027, to modify commitment #4 to read: "there shall be no storage of inoperable, wrecked or junk vehicles. The storage of automobile parts outside shall be prohibited. Such prohibition shall not prohibit the use of Portable Storage Containers for storage of automobile parts" (previous commitment #4 stated that "there shall be no storage of inoperable, wrecked or junk vehicles, and the outside storage of automobile parts shall be prohibited".

**Request:**  
Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for a variance of use to provide for one portable permanent storage container for storage of materials, and one portable temporary storage container for storage of materials (portable storage containers not permitted for more than 30 days).

**Current Land Use:** Vehicle Repair

**Staff Recommendations:** Denial, subject to the commitments noted below:

**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

The Hearing Examiner acknowledged the timely automatic continuance that was filed by the petitioner's representative that continued these petitions from the February 27, 2025 hearing, to the March 27, 2025 hearing.

**STAFF RECOMMENDATION**

If approved, staff would request that approval, subject to the following commitment being reduced to writing on the Commission's Exhibit "B" forms at least three days prior to the MDC hearing:

1. The site and improved areas within the site shall be maintained in a reasonably neat and orderly manner during and after development of the site with appropriate areas and containers / receptacles provided for the proper disposal of trash and other waste.
2. Location of the portable storage units shall be consistent with the site plan filed-dated December 13, 2025.

## PETITION OVERVIEW

This 0.70-acre site, zoned C-5 (FF) (W-1), is developed with commercial uses. It is surrounded by commercial uses to the north, zoned C-4 (FF) (W-1); a water utility to the south, zoned SU-39 (W-1); commercial uses to the east, across North Keystone Avenue, zoned C-4 (FF) (W-1); and commercial uses to the west, zoned C-5.

Petitions 2002-ZON-846 / 2002-VAR-835 rezoned this site to the C-4 District to provide for regional commercial uses and a variance of developments standards for reduced parking and drive-through stacking spaces within the access drive.

## MODIFICATION

The request would modify commitments related to 2019-ZON-027. Commitment Number Four currently reads “there shall be no storage of inoperable, wrecked or junk vehicles, and the outside storage of automobile parts shall be prohibited.” The requested modified commitment would read “there shall be no storage of inoperable, wrecked or junk vehicles. The storage of automobile parts outside shall be prohibited. Such prohibition shall not prohibit the use of Portable Storage Containers for storage of automobile parts.”

## VARIANCE OF USE

This request would provide for a variance of use to provide for one portable permanent storage container for storage of materials, and one portable temporary storage container for storage of materials. The Ordinance limits the use of portable storage containers to 30 days.

The initial variance of use request included a variance of use for a truck rental business. On February 27, 2025, the Hearing Examiner acknowledged the petitioner’s representative withdrawal of the variance of use for a truck rental business.

The site plan, file dated December 13, 2024, identifies the location of storage containers and the truck parking. If approved, staff would request that approval be subject to this site plan as it relates only to the location of the portable storage containers.

## Wellfield Protection Secondary Zoning

A wellfield is an area where the surface water seeps into the ground to the aquifer and recharges the wells that are the source of our drinking water. This secondary zoning district places closer scrutiny on uses and activities that might contaminate the underground drinking water supply.



**Department of Metropolitan Development  
Division of Planning  
Current Planning**

There are two wellfield district designations. An area identified as W-1 is a one-year time-of-travel protection area. The W-5 is a five-year time-of-travel protection area. All development within these districts are subject to Commission approval. The filing of a site and development plan is required and subject to approval, on behalf of the Commission, by a Technically Qualified Person (TQP), unless exempted by the Ordinance.

“Because of the risk that hazardous materials or objectionable substances pose to groundwater quality, it is recognized that the further regulation of the manufacturing of, handling, transfer, disposal, use or storage of hazardous materials or objectionable substances related to nonresidential use activities is essential in order to preserve public health and economic vitality with Marion County.”

All uses permitted in the applicable primary zoning district shall be those uses permitted in the W-1 and W-5 zoning districts, unless otherwise prohibited by the Ordinance, and provided no other secondary zoning district prohibits the use.

“No building, structure, premises or part thereof shall be altered, constructed, converted, erected, enlarged, extended, modified, or relocated except in conformity with this Section, and not until the proposed Site and Development Plan has been filed with and approved on behalf of the Commission by the Technically Qualified Person (TQP). Regulations found in Chapter 742, Article II, Section 4 shall apply to all land within the Wellfield Protection Zoning Districts. The entire site shall be subject to review by the TQP. These regulations shall be in addition to all other primary and secondary zoning district regulations applicable to such land, and in case of conflict, the more restrictive regulations shall apply.

The subject site is located in W-1 Fall Creek wellfield protection area and any use or development within a wellfield protection district would be subject to the Technically Qualified Person (TQP) review and approval, unless and until the property owner provides sufficient justification that the type of use, type of facility, and chemical quantity limits, independent of the land use would be exempt from the requirements for filing a development plan. Otherwise, a development plan would be required to be filed and approved on behalf of the Metropolitan Development Commission by the (TQP). Contaminants that would have an adverse effect would include chemicals that are used in the home, business, industry, and agriculture. Chemicals such as furniture strippers, lawn and garden chemicals, cleaning chemical and solvents, gasoline, oil, and road salt can all contaminate groundwater supplies if poured on the ground or improperly used or stored.

### **Floodway Fringe**

The designation of the FF District is to guide development in areas subject to potential flood damage, but outside the Floodway (FW) District. Unless otherwise prohibited, all uses permitted in the primary zoning district (C-5 in this request) are permitted, subject to certain development standards of the Flood Control Secondary Zoning Districts Ordinance.

The entire site is located within the unregulated 500-year flood plain. Consequently, there would be minimal impact of this request on the floodplain.

## **Environmental Public Nuisances**

The purpose of the Revised Code of the Consolidated City and County, Sec.575 (Environmental Public Nuisances) is to protect public safety, health and welfare and enhance the environment for the people of the city by making it unlawful for property owners and occupants to allow an environmental public nuisance to exist.

All owners, occupants, or other persons in control of any private property within the city shall be required to keep the private property free from environmental nuisances.

Environmental public nuisance means:

1. Vegetation on private or governmental property that is abandoned, neglected, disregarded or not cut, mown, or otherwise removed and that has attained a height of twelve (12) inches or more;
2. Vegetation, trees or woody growth on private property that, due to its proximity to any governmental property, right-of-way or easement, interferes with the public safety or lawful use of the governmental property, right-of-way or easement or that has been allowed to become a health or safety hazard;
3. A drainage or stormwater management facility as defined in Chapter 561 of this Code on private or governmental property, which facility has not been maintained as required by that chapter; or
4. Property that has accumulated litter or waste products, unless specifically authorized under existing laws and regulations, or that has otherwise been allowed to become a health or safety hazard.

Staff would request a commitment that emphasizes the importance of maintaining the site in a neat and orderly manner at all times and provide containers and receptacles for proper disposal of trash and other waste.

## **Planning Analysis**

Staff recommended denial of the 2019 rezoning to the C-5 district because it would introduce a more intense commercial use than the “community commercial” Comprehensive Plan recommendation. Community commercial would typically be represented by C-3 (neighborhood commercial) or C-4 (regional commercial) districts, depending upon the context of the area.

Staff believes modifying the commitments and allowing two temporary portable storage containers would be further inappropriate intensification of the site that would negatively impact the surrounding land uses and compromise the implementation of the Comprehensive Land Use.

## GENERAL INFORMATION

<b>Existing Zoning</b>	C-5 (FF) (W-1)	
<b>Existing Land Use</b>	Automobile vehicle repair	
<b>Comprehensive Plan</b>	Community Commercial	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
	North:	C-4 (FF) (W-1) Commercial uses
	South:	SU-39 (FF) (W-1) Water utility
	East:	C-4 (FF) (W-1) Commercial uses
	West:	C-5 (W-1) Commercial uses
<b>Thoroughfare Plan</b>		
North Keystone Avenue	Primary arterial	Existing 94-foot right-of-way and proposed 104-foot right-of-way.
<b>Context Area</b>	Metro	
<b>Floodway / Floodway Fringe</b>	No	
<b>Overlay</b>	No	
<b>Wellfield Protection Area</b>	No	
<b>Site Plan</b>	December 13, 2024	
<b>Site Plan (Amended)</b>	N/A	
<b>Elevations</b>	N/A	
<b>Elevations (Amended)</b>	N/A	
<b>Landscape Plan</b>	N/A	
<b>Findings of Fact</b>	December 13, 2024	
<b>Findings of Fact (Amended)</b>	N/A	
<b>C-S/D-P Statement</b>	N/A	

## COMPREHENSIVE PLAN ANALYSIS

### Comprehensive Plan

The Comprehensive Plan recommends Community Commercial. 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.

### Pattern Book / Land Use Plan

The Comprehensive Plan consists of two components that include The Marion County Land Use Pattern Book (2019) and the land use map. The Pattern Book provides a land use classification system that guides the orderly development of the county and protects the character of neighborhoods while also being flexible and adaptable to allow neighborhoods to grow and change over time.

The Pattern Book serves as a policy guide as development occurs. Below are the relevant policies related to this request:

- *Conditions for All Land Use Types – Community Commercial Typology*
  - 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.

### 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)

The Marion County Thoroughfare Plan (2019) “is a long-range plan that identifies the locations classifications and different infrastructure elements of roadways within a defined area.”

The following listed items describe the purpose, policies and tools:

- Classify roadways based on their location, purpose in the overall network and what land use they serve.
- Provide design guidelines for accommodating all modes (automobile, transit, pedestrians, bicycles) within the roadway.
- Set requirements for preserving the right-of-way (ROW)
- Identify roadways for planned expansions or new terrain roadways
- Coordinate modal plans into a single linear network through its GIS database

## ZONING HISTORY

**2019-ZON-027; 4360 and 4390 North Keystone Avenue**, requested rezoning of 0.92 acre from the C-4 (FF) (W-1) district to the C-5 (FF) (W-1) classification, **approved**.

**2002-ZON-846 / 2002-VAR-846, 2114 Clay Street and 4630, 4380 and 4390 North Keystone Avenue**, requested rezoning of 0.9-acre from the C-5 (W-1) District to the C-4 (W-1) classification to provide for regional commercial uses and variances of development standards to provide for reduced off-street parking, zero handicapped parking space and required drive-through stacking spaces located within the access drive, **approved and granted**.

## VICINITY

**89-Z-18; 4250 East Fall Creek Parkway North Drive (south of site)**, requested rezoning of 17.0 acres being the I-2-U district to the SU-39 classification to conform with the Keystone Avenue Corridor Plan adopted August 1986, **approved**.

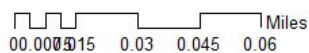
**71-Z-224; 2200 East 44<sup>th</sup> Street (north of site)**, requested rezoning of 1.18 acres being in the I-2-U district to the C-5 classification to conform to existing zoning on adjacent tract (Lots 666 and 667), **approved**.



EXHIBITS

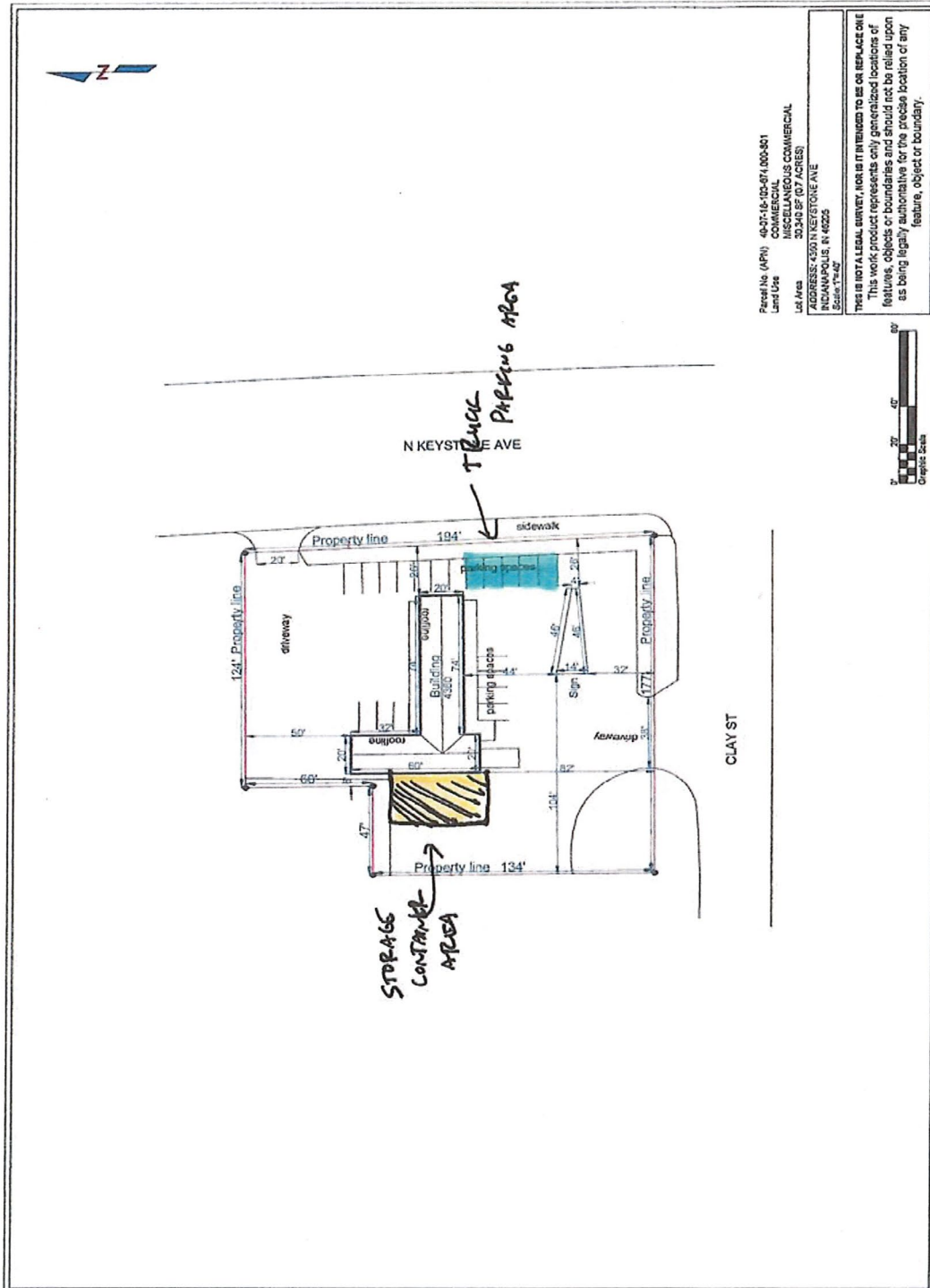


4360 North Keystone Avenue





Site Plan





Department of Metropolitan Development  
Division of Planning  
Current Planning

Petition Number \_\_\_\_\_

METROPOLITAN BOARD OF ZONING APPEALS, Division \_\_\_\_\_  
OF MARION COUNTY, INDIANA

PETITION FOR VARIANCE OF USE  
STORAGE CONTAINERS

FINDINGS OF FACT

1. The grant will not be injurious to the public health, safety, morals, and general welfare of the community because:  
The proposed variance allows for this C5 zoned property to utilize two on-site storage containers for the purpose of storing materials for the auto service and tire repair business. One container will be stored on-site on a long term basis, while the other is utilized on a short term basis when larger shipments of materials are received. The containers are in good repair and water tight condition and will not impact clear site triangles or impact safety of those on or off-site.
  
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 storage containers are located in a way which they are shielded from Keystone Avenue. The use of the containers on a more than thirty (30) day basis will allow for materials to be stored indoors, preventing unsightly stacking of materials and preserving the life of materials while awaiting sale and installation. The areas where the containers are located are already paved, so no additional impervious surface will be required for their use. The containers are generally in good repair.
  
3. The need for the variance arises from some condition peculiar to the property involved and the condition is not due to the general condition of the neighborhood because:  
The property has a single-story structure on site which has been repurposed for the existing auto and tire use, but which has design and access challenges for the volume of use typically associated with these uses. The use of these storage containers, which would be permitted if they stayed less than thirty (30) days will allow for the existing site to continue to be used for a productive and active business.
  
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 zoning ordinance does not differentiate between a storage container which can be used on a semi-permanent basis in the same way that an accessory building (e.g. shed) could be utilized and a temporary use for a storage container. The use of the storage container as a long term on-site storage solution will allow for easier reuse of the property if/when the current business ceases.
  
5. The grant does not interfere substantially with the Comprehensive Plan because:  
The small size of the containers in relationship to the size of the property does no impair the on-going use of the property in line with the Comp Plan recommendation of Community Commercial.

DECISION

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

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_



View looking north along North Keystone Avenue



View looking east along Clay Street towards North Keystone Avenue





View looking west along Clay Street



View of site looking northwest across Clay Street





View of site looking north across Clay Street



View from site looking south across Clay Street



View from site looking southwest across Clay Street