

STAFF REPORT

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

Case Number: 2023-DV2-035 (Amended)
Address: 5602 North Keystone Avenue (approximate address)
Location: Washington Township, Council District #9
Zoning: C-4
Petitioner: T5 Keystone LLC, by Timothy E. Ochs
Request: Variance of Development Standards of the Consolidated Zoning and Subdivision Ordinance to provide for the operation of a quick service oil change facility with a drive-through with only one stacking space before the final component (two stacking spaces required) that faces a public right-of-way greater than 30-foot wide (not permitted).

ADDENDUM FOR JANUARY 9, 2024

This petition was continued from the December 12, 2023, hearing, to the January 9, 2024, hearing at the request of the petitioner.

December 12, 2023

RECOMMENDATIONS

Staff **recommends denial** of this petition.

Amended Petition: This petition was amended to change the stacking space requirement from four stacking spaces required, to two stacking spaces required. Additional notice would not be needed, as the amended request would deviate less from the Ordinance than the original notice.

SUMMARY OF ISSUES

LAND USE

EXISTING ZONING AND LAND USE

C-4 Community Commercial

SURROUNDING ZONING AND LAND USE

North - C-4 / D-5 Commercial Contractor
South - C-5 Integrated Commercial Center
East - C-3 Commercial Retail uses
West - D-5 Single-family dwellings

COMPREHENSIVE PLAN

The Comprehensive plan recommends community commercial uses for the site.

(Continued)

STAFF REPORT 2023-DV2-035 (Continued)

VARIANCE OF DEVELOPMENT STANDARDS

- ◇ The petitioner proposes to demolish and replace the existing structure, with a quick service oil change facility designed with a drive-through with only one stacking space before the final component that faces a public right-of-way greater than 30-foot wide.
- ◇ The purpose of off-street stacking space regulations is to promote public safety by alleviating on-site and off-site traffic congestion from the operation of a facility that has a drive-through service unit.
- ◇ With the lack of the required stacking spaces and the proximity of the final component facing a public right-of-way, traffic at this site is likely to result in congestion and vehicular conflict.
- ◇ The proposed oil change facility with a drive-through with only one stacking space before the final component that faces a public right-of-way is a design component of the petitioner that is proposing the development, and not reflective of any requirement or difficulty imposed on the site, as the site was previously developed with and can still be developed with C-4 uses that are Ordinance compliant without the need for any variances.
- ◇ The petitioner’s findings of fact indicate that the practical difficulty in the use of the property does in fact result from the components of the drive through experience and are part of the overall design of the facility, and any changes to the design of the facility would be a practical difficulty.
- ◇ Staff disagrees, in that the petitioner did not do their due diligence in finding a site that accommodates their proposed design for a complete facility without the need for variances. Staff believes that since this is new construction, and not the reuse of the previous building, that the design of the new construction should relate to the site in meeting the Ordinance standards.
- ◇ Any deviation from the minimum standards should be related to the property, and not to the proposed design of the facility or development. There is no inherent practical difficulty caused by the terms of the Ordinance upon the subject site. This site would consist of new construction that could be designed to meet the terms of the Ordinance, but the petitioner has decided not to follow the Ordinance for their specific design. Therefore, Staff does recommend denial of the request as proposed.

GENERAL INFORMATION

THOROUGHFARE PLAN

This section of North Keystone is classified on the Official Thoroughfare Plan as a primary arterial with a 98-foot existing right -of-way and a 104-foot proposed right-of-way

This section of East 56th Street is classified on the Official Thoroughfare Plan.as a local street with a 70-foot existing and proposed right-of-way

SITE PLAN

File-dated November 8, 2023

FINDINGS OF FACT

File-dated November 8, 2023
(Continued)

STAFF REPORT 2023-DV2-035 (Continued)

ZONING HISTORY

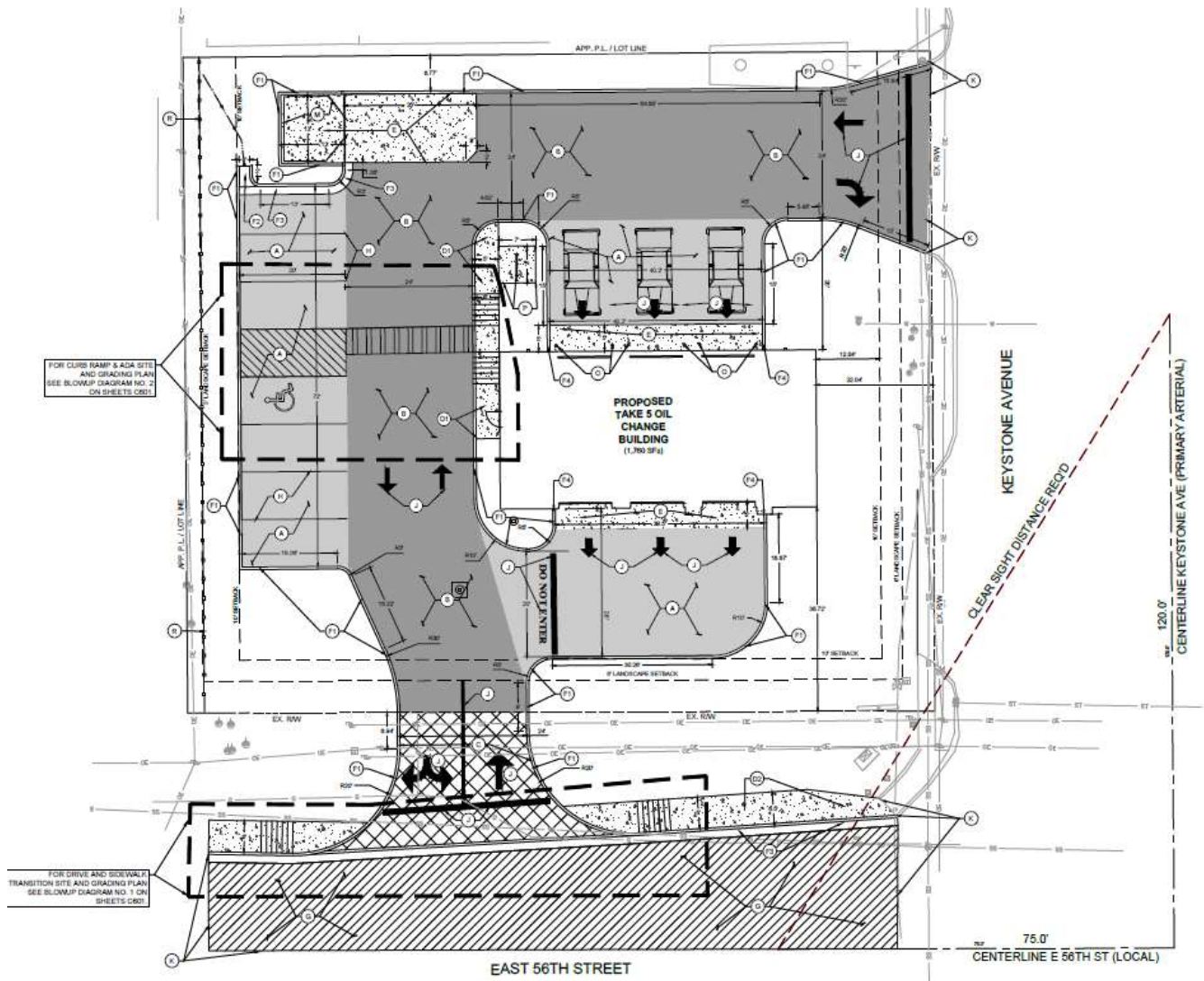
2018-ZON-065; 5581 North Keystone Avenue (southeast of site), requested the rezoning of 0.3 acre from the D-4 (W-5) district to the C-4 (W-5) classification, **approved**.

2018-UV1-027; 5565 North Keystone Avenue (southeast of site), requested a variance of use and development standards of the Consolidated Zoning and Subdivision Ordinance to legally establish three roof signs and a pylon sign with a three-foot front setback from Keystone Avenue, **granted**.

2015-UV3-022; 5616 North Keystone Avenue (north of site), requested a variance of use and development standards of the Commercial and Dwelling Districts Zoning Ordinances to provide for a contractor, with outdoor storage of construction equipment, a parking lot, a gravel outdoor storage area, with a five-foot west side transitional setback, without landscaping, and a trash container enclosure, with said storage enclosed by a 10-foot tall fence, and with the parking area having a zero-foot front yard, **granted**.

RU

2023-DV2-035: Site Plan



2023-DV2-035: Photographs



View of subject site, proposed building under construction, looking north from East 56th Street.



View of subject site, proposed building under construction, looking west from North Keystone Avenue.



View of adjacent single family residential to the west, looking north.



View of adjacent integrated commercial center to the south.