

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 FEBRUARY 13, 2024

This petition was continued from the January 9, 2024, hearing, to the February 13, 2024, hearing at the request of the petitioner.

The petitioner has submitted a revised site plan, and proposed commitments to help alleviate possible congestion with exiting the site.

Staff continues to **recommend denial of the request**, as the proposal is an overdevelopment of the site requiring the additional variances and commitments for traffic control.

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.

(Continued)

STAFF REPORT 2023-DV2-035 (Continued)

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.

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 drive-through concept is by choice and not a requirement of the Ordinance.
- ◇ 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 limited by an existing building or topographical features, that the design of the new construction should relate to the site in meeting the Ordinance standards.

(Continued)

STAFF REPORT 2023-DV2-035 (Continued)

◇ 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, as it has been previously developed without variances and can continue to be developed without variances. 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

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: Proposed Commitments

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A VARIANCE, SPECIAL EXCEPTION OR APPROVAL GRANT.

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in Marion County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the parcel of real estate:

Legal Description: Lots Numbered Seventy (70), Seventy-One (71) and Thirty-Five (35) feet off the entire South Side of Lots Numbered Sixty-nine (69) in North Kessler Park, an addition to the City of Indianapolis, as per the plat thereof recorded in Plat Book 24, page 582, in the Office of the Recorder of Marion County, Indiana; EXCEPT therefrom, any part taken for State Road 431, in appropriate proceedings in Superior Court Cause No. C-33486 (the "Real Estate")

Statement of COMMITMENTS:

1. Owner shall comply with the site plan attached hereto as Exhibit A.
2. During all hours that any business that utilizes a drive-through (as defined in the Zoning Ordinance for Marion County, Indiana) is open and operating on the Real Estate, the Owner shall
 - a. Cause an employee to monitor and maintain control over the exiting of vehicles from service bays, and
 - b. Install and maintain a readily visible directional sign on the Real Estate that directs customers to utilize the eastern or left most available stacking space for vehicles waiting to enter a service bay.

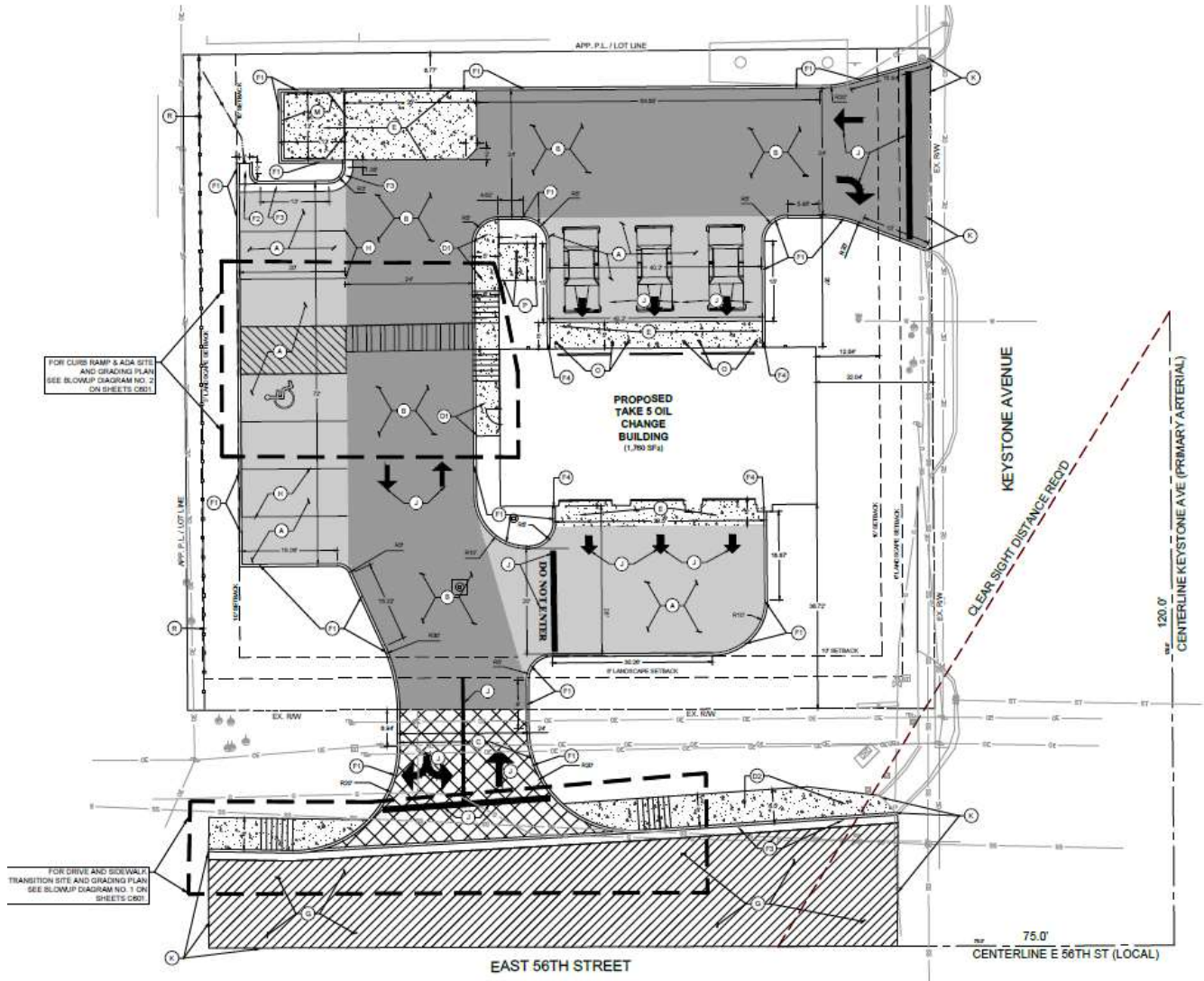
These COMMITMENTS shall be binding on the owner, subsequent owners, and other persons acquiring an interest in the real estate. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Board of Zoning Appeals made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of variance, special exception or approval petition # 2023-DV2-035 by the Metropolitan Board of Zoning Appeals or the Hearing Officer.

These COMMITMENTS may be enforced jointly and severally by:

1. The Metropolitan Development Commission; and,
2. Owners of all parcels of ground adjoining the real estate depth of two (2) ownerships, but not exceeding six hundred sixty (660) feet from the perimeter of the real estate. Owners of real estate entirely located outside Marion County are not included, however. The identity of owners shall be determined from the records in the offices of the various township assessors of the Marion County, which the current owners of record at the time the notice shall be sent. (This paragraph defines the category of persons entitled to receive personal notice of the variance, special exception or approval petition under the rules of the Board in force at the time the COMMITMENT was made); and,

2023-DV2-035: Site Plan - original



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.