



Legislation Text

File #: 1393-2009, **Version:** 2

Council Variance: CV09-011

APPLICANT: Skilken Development LLC; c/o Rebecca Egelhoff, Atty.; 175 South Third Street, Suite 800; Columbus, OH 43215.

PROPOSED USE: Motor vehicle fuel sales and a car wash in conjunction with convenience retail sales.

CITY DEPARTMENTS' RECOMMENDATION: Approval. The site is developed with a vacant automobile dealership zoned in the C-4, Commercial District. The applicant requests a Council variance to allow fuel sales and a car wash in conjunction with convenience retail sales. The variance is being requested instead of a rezoning to allow for a quicker sale of the property as the owner has filed for bankruptcy. The site is located in Area 20 within the planning area of the *Northland Plan Volume I* (2001). The Plan does not offer specific land use guidance for this site, although it does contain recommendations concerning the long-term viability and stabilization of this commercial corridor, and Staff has determined that the proposed commercial uses are appropriate. The site will be designed to include applicable *Northland Development Standards* (1992) as they apply to landscaping and screening and will comply with Regional Commercial Overlay provisions except to allow additional parking spaces. The applicant has committed to filing a follow-up rezoning application within eighteen (18) months to rezone the fuel station site and the property to the immediate west to the CPD, Commercial Planned Development District. The applicant has also committed to service station abandonment provisions and additional development standards for the proposed car wash.

To grant a Variance from the provisions of Sections 3356.03, C-4 permitted uses; and 3372.809 A., Parking and circulation, of the Columbus City Codes; for the property located at **1953 MORSE ROAD (43229)**, to permit motor vehicle fuel sales and a car wash in conjunction with convenience retail sales with an increase in the maximum number of required parking spaces in the C-4, Commercial District (Council Variance CV09-011).

WHEREAS, by application No. CV09-011, the owner of property at **1953 MORSE ROAD (43229)**, is requesting a Council Variance to permit motor vehicle fuel sales and a car wash in conjunction with convenience retail sales with an increase in the maximum number of required parking spaces in the C-4, Commercial District; and

WHEREAS, Section 3356.03, C-4 permitted uses, does not permit motor vehicle fuel sales or car washes, while the applicant proposes to develop a motor vehicle fuel sales station and a car wash in conjunction with convenience retail sales; and

WHEREAS, Section 3372.809 A., Parking and circulation, allows an increase in the required number of parking spaces by 5%, increasing the required spaces from 18 to 19, while the applicant proposes an increase in the maximum number of required parking spaces by ~~45~~ **22%**, providing a total of ~~26~~ **22** parking spaces; and

WHEREAS, the subject site is within the Regional Commercial Overlay and is subject to compliance with Sections 3372.80-3372.809 except as varied above; and

WHEREAS, the Columbus Public Health Healthy Places program reviews applications for active living features and recognizes this development has a centrally located bike rack for employees or customers that ride their bike by choice or because of limited alternatives; and

WHEREAS, City Departments recommend approval because Staff has determined that the proposed commercial uses are acceptable. The site will be designed to include applicable *Northland Development Standards* (1992) as they apply to landscaping and screening and will comply with Regional Commercial Overlay provisions except to allow additional parking spaces. The applicant has committed to filing a follow-up rezoning application within eighteen (18) months to rezone the fuel station site and the property to the immediate west to the CPD, Commercial Planned Development District; and

WHEREAS, said ordinance requires separate submission for all applicable permits and Certificate of Occupancy for the proposed use; and

WHEREAS, said variance will not adversely affect the surrounding property or surrounding neighborhood; and

WHEREAS, the granting of said variance will not impair an adequate supply of light and air to adjacent properties or unreasonably increase the congestion of public streets, or unreasonably diminish or impair established property values within the surrounding area, or otherwise impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Columbus; and

WHEREAS, the granting of said variance will alleviate the difficulties encountered by the owners of the property located at **1953 MORSE ROAD (43229)**, in using said property as desired; now, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That a variance is granted from the provisions of Section 3356.03, C-4 permitted uses; and 3372.809 A., Parking and circulation, of the Columbus City Codes; for the property located at **1953 MORSE ROAD (43229)**, to permit commercial motor vehicle fuel sales and a car wash in the C-4, Commercial District with **8 4** more parking spaces than what is required by the Regional Commercial Overlay provisions; said property being more particularly described as follows:

1953 MORSE ROAD (43229), being 5.77± acres located on the south side of Morse Road, 376± feet west of Fountain Square Drive, and being more particularly described as follows:

Situated in the State of Ohio, County of Franklin, City of Columbus, being a part of Quarter Township 1, Township 1 North, Range 18 West, United States Military District and being a 5.774 acre parcel of land comprised of a 4.761 acre parcel (PARCEL 1 - 5.002 acres minus exception) and a 1.013 acre parcel (PARCEL 2) conveyed to Chrysler Realty Corporation, in a Deed of Record, in Official Record Volume 7057G07, all record references cited herein being to records of the Franklin County Recorder's Office, Columbus, Ohio, unless otherwise specified, and said 5.774 acre parcel being more particularly bounded and described as follows:

Beginning for reference at an uncapped 5/8 inch iron pipe found, at grade, at the northeasterly corner of a 0.280 acre parcel described as "Reserve A" as delineated and defined on the record plat of Fountain Square, a subdivision of record in Plat Book 43, Page 87, said iron pipe found also being on the southerly right-of-way line to Morse Road (C.R. 17 ~ variable right-of-way);

Thence N 86° 22'27" W, along the southerly right-of-way line to said Morse Road, and the southerly line of a 0.103 acre parcel (TRACT 2) conveyed to the City of Columbus, Ohio in Deed Book 3021, Page 442, and along the northerly line of said "Reserve A", and along the northerly termination line of Fountain Square Drive (64' R/W), as said drive is defined on said Fountain Square Subdivision Plat, and along the northerly line of a 0.01 acre, 1 foot wide strip of land, described as "Reserve B", on said subdivision plat, and passing a 3/4 inch solid iron rod found, at grade, 0.18 feet south of said line, at 17.60 feet, a total distance of 103.69 feet to a point at the northwesterly corner of said "Reserve B", and on the easterly line of a 3.823 acre parcel conveyed to 1959 - 2007 Morse Road Co., Ltd., in Instrument Number 200009060179813, said point also being on the southwesterly corner of said 0.103 acre City of Columbus, Ohio parcel;

Thence N 03° 40'45" E, along the southerly right-of-way line to Morse Road and along the easterly line of said 3.823 acre parcel and the westerly line of said 0.103 acre parcel, a distance of 2.00 feet to a point at the northeasterly corner of said 3.823 acre parcel, said point also being at the southeasterly corner of a 0.45 acre parcel conveyed to the City of Columbus, Ohio, in Deed Book 2927, Page 338;

Thence N 86° 50'07" W, along the southerly right-of-way line to Morse Road, the southerly line of said 0.45 acre City of Columbus parcel and the northerly line of said 3.823 acre parcel, a distance of 375.47 feet to an uncapped 5/8 inch iron pin found, at grade, at the northwesterly corner of said 3.823 acre parcel, said iron pin found also being at the northeasterly corner of said 1.013 acre parcel, and being the true point of beginning of the parcel herein described;

Thence leaving the southerly right-of-way line to Morse Road, S 03° 37'33" W, along the westerly line of said 3.823 acre parcel and the easterly line of said 1.013 acre parcel, a distance of 441.60 feet to a railroad spike set in asphalt pavement at the southwesterly corner of said 3.823 acre parcel and the southeasterly corner of said 1.013 acre parcel, said railroad spike set also being on a northerly line of said 4.761 acre parcel;

Thence S 86° 10'18" E, along the southerly line of said 3.823 acre parcel and a northerly line of said 4.761 acre parcel, a distance of 182.93 feet to a railroad spike set in asphalt pavement at a northeasterly corner of said 4.761 acre parcel, said railroad spike set also being at the northwesterly corner of Lot 5 of said Fountain Square Subdivision, said Lot 5 being a 0.784 acre parcel (PARCEL TWO) conveyed to the State of Ohio, Department of Natural Resources, in Official Record Volume 11889C20;

Thence S 03° 35'18" W, along the westerly line of said Lot 5 and said 0.784 acre parcel, and along an easterly line of said 4.761 acre parcel, a distance of 185.00 feet to a railroad spike set in asphalt pavement at the southwesterly corner of said Lot 5 and 0.784 acre parcel, and the southeasterly corner of said 4.761 acre parcel, said railroad spike set also being on the northeasterly corner of a 0.02 acre, 2 foot wide strip of land, described as "Reserve D" on said Fountain Square Subdivision Plat;

Thence N 86° 09'50" W, along a southerly line of said 4.761 acre parcel, and along the northerly line of said "Reserve D", a distance of 431.67 feet to an iron pin set at a southwesterly corner of said 4.761 acre parcel, and the northwesterly corner of said "Reserve D", said iron pin set also being at a southeasterly corner of a 1.464 acre parcel (FOUNTAIN SQUARE IV) conveyed to the State of Ohio, Department of Natural Resources, in Official Record Volume 11889C20, said iron pin set also being on an easterly line of Lot 1 of said Fountain Square Subdivision;

Thence N 03° 35'18" E, along a westerly line of said 4.761 acre parcel and the easterly line of said 1.464 acre parcel and said Lot 1, a distance of 185.08 feet to a railroad spike set in asphalt pavement at an internal corner of said 4.761 acre parcel, the northeasterly corner of said 1.464 acre parcel, and a northeasterly corner of said Lot 1;

Thence N 86° 12'27" W, along a southerly line of said 4.761 acre parcel, and the northerly line of said 1.464 acre parcel and said Lot 1, a distance of 150.00 feet to a railroad spike set in asphalt pavement at a southwesterly corner of said 4.761 acre parcel, said railroad spike set also being at the southeasterly corner of Lot 3 of said Fountain Square Subdivision, said Lot 3 being a 1.049 acre parcel conveyed to Cardinal Investment Properties, LLC, in Instrument Number 200506070109735;

Thence N 03° 29'23" E, along a westerly line of said 4.761 acre parcel, and along the easterly line of said 1.049 acre parcel and said Lot 3, a distance of 426.20 feet to a point on the southerly right-of-way line to Morse Road, said point being at the northeasterly corner of said 1.049 acre parcel and said Lot 3, and the northwesterly corner of said 4.761 acre parcel, said point also being at the southeasterly corner of a 0.086 acre parcel conveyed to the City of Columbus, Ohio, in Deed Book 2940, Page 334, and the southwesterly corner of a 0.241 acre parcel conveyed to the City of Columbus, Ohio, in Deed Book 2928, Page 470, and said point being S 07° 55'07" W, a distance of 2.17 feet from an uncapped 5/8 inch iron pin found, 0.4 feet below grade;

Thence S 86° 12'27" E, along the southerly right-of-way line to Morse Road, the southerly line of said 0.241 acre parcel, and the northerly line of said 4.761 acre parcel, a distance of 299.75 feet to an iron pin set at the southeasterly corner of said 0.241 acre parcel and the northeasterly corner of said 4.761 acre parcel, said iron pin set also being on the westerly line of said 1.013 acre parcel;

Thence N 03° 37'33" E, along the southerly right-of-way line to Morse Road, the easterly line of said 0.241 acre parcel, and the westerly line of said 1.013 acre parcel, a distance of 14.01 feet to a railroad spike set at the northwesterly corner of said 1.013 acre parcel, said railroad spike set also being at the southwesterly corner of said 0.45 City of Columbus right-of-way parcel;

Thence S 86° 50'07" E, along the northerly line of said 1.013 acre parcel, the southerly line of said 0.45 acre parcel, and the southerly right-of-way line to Morse Road, a distance of 100.00 feet to the true point of beginning, containing 5.774 acres, more or less, and being subject to all rights-of-way, easements, restrictions and covenants of record.

The bearings as described herein are based upon a southerly right-of-way line bearing to Morse Road, being S 86° 12'27" E, as calculated through observation of found Morse Road right-of-way monumentation, and GPS control points set for the Morse Road Improvement Project, said plan being of record in FRA-Morse Road Improvements - Phase 2, City of Columbus, Ohio, Department of Public Service, Transportation Division, Drawer E drawing 2137, last revised 11-06-08. Bearings are based upon the Ohio State Plane Coordinate System, Ohio South Zone, NAD 83.

The "iron pins set", as described herein, are 30 inches in length, 3/4 inch inside diameter, hollow iron pipes, with yellow plastic caps stamped "P & L Syst."

This description was prepared by William Weber, Ohio Registered Surveyor Number PS-7808, of P & L Systems, Inc., from record information and from information obtained from an actual field survey of the premises conducted in June, and July, 2009.

SECTION 2. That this ordinance is conditioned on and shall remain in effect only for so long as said property is used for commercial motor vehicle fuel sales in conjunction with convenience retail use with or without a car wash, or those uses permitted in the C-4, Commercial District on this site.

SECTION 3. That this ordinance is further conditioned on substantial compliance with the registered site plan titled, "**SITE PLAN FOR COUNCIL VARIANCE APPROVAL**," drawn by P & L Systems, Inc., and signed on October 5, 2009, by Rebecca Egelhoff, Attorney for the Applicant. Any slight adjustments to said site plan are subject to review and approval by the Director of the Department of Development, or his designee, upon submission of the appropriate data regarding the proposed adjustment.

SECTION 4. That this ordinance is further conditioned by the requirement that the applicant file an application to rezone the subject site to the CPD, Commercial Planned Development District, said application to be filed within eighteen (18) months of the date that this Council variance becomes effective.

SECTION 5. That this ordinance is further conditioned on the following:

A. Compliance with the provisions of Section 3357.18, Abandoned service stations.

B. Carwash Development Standards:

1. There shall be at least one (1) employee attendant on duty and working at this location at all times that the carwash is open for business.
2. The carwash shall operate only as an automatic wash with an attendant on duty. There shall be no self-serve washing facilities, although vacuum stations may be available on a self-serve basis.
3. All car washing and car drying equipment shall be completely contained within the carwash building, enclosed storage facility or underground.
4. Only vacuum equipment shall be permitted outside of the carwash building or storage facility above grade.
5. No on-site parking space shall be used of any purpose other than incidental use related to the carwash and/or retail gas filling station, including but not limited to parking of vehicles and vacuuming of vehicles while the vehicles are on the premises for the carwash. No parking space shall be rented, leased or in any way offered for use or be allowed to be used for storage or parking of vehicles unrelated to the carwash and/or retail gas filling station.

C. A centrally located bike rack will be provided for employee or customer bicycle parking.

D. Outside display areas are limited to along the four foot wide sidewalk surrounding the retail building and on the ends of the pump islands not facing Morse Road not to exceed a footprint of 2' x 2' and not to exceed four feet in height.

E. Maximum lot coverage shall be 80%.

F. The Site Plan does not reflect stacking or by-pass lanes for the proposed car wash. The applicant shall comply with the stacking and by-pass requirements or seek variances from the Board of Zoning Adjustment.

SECTION 6. That this ordinance is further conditioned on the applicant obtaining all applicable permits and a Certificate of Occupancy for the proposed use.

SECTION 7. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.