



**METROPOLITAN DEVELOPMENT COMMISSION**

**September 4, 2024**

**Case Number:** 2024-MOD-011 (Amended)  
**Property Address:** 4001 South Keystone Avenue  
**Location:** Perry Township, Council District #19  
**Petitioner:** Aman, LLC, by Tyler Ochs  
**Current Zoning:** C-4  
**Request:** Modification of the Commitments related to 2016-ZON-083 to Modify Commitment #2 to remove “Automobile Fueling Station” from the list of prohibited uses.  
**Current Land Use:** Commercial uses (vacant)  
**Staff Recommendations:** Denial.  
**Staff Reviewer:** Kathleen Blackham, Senior Planner

**PETITION HISTORY**

The Hearing Examiner acknowledged the automatic continuance that was filed by a remonstrator that continued this petition from the July 11, 2024 hearing, to the August 15, 2024 hearing.

This petition was heard by the Hearing Examiner on August 15, 2024, who acknowledged the petitioner’s representative’s withdrawal of the portion of the request that would remove “automobile / light vehicle wash” from the list of prohibited uses. After a full hearing, the Hearing Examiner recommended denial of the modification of the 2016 commitments to remove “automobile fueling station” from the list of prohibited uses. Subsequently, the petitioner’s representative filed an appeal of the Hearing Examiner’s decision. A memorandum of her recommendation is attached.

The petitioner’s representative has requested a **continuance from the September 4, 2024 hearing, to the September 18, 2024 hearing**, due to a scheduling conflict. Staff would not object to the continuance.

**STAFF RECOMMENDATION**

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

1. A 60-foot half right-of-way shall be dedicated along the frontage of South Keystone Avenue; a 59.5-foot half right-of-way shall be dedicated along the frontage of Hanna Avenue, and a 40-foot half right-of-way shall be dedicated along Carson Avenue as per the request of the Department of Public Works (DPW), Engineering Division. Additional easements shall not be granted to third parties within the area to be dedicated as public right-of-way prior to the acceptance of all grants of right-of-way by the DPW. The right-of-way shall be granted within 60 days of approval and prior to the issuance of an Improvement Location Permit (ILP).
2. 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.
3. The two access drives in proximity of the intersection of South Keystone Avenue and East Hanna Avenue (the northernmost access drive along South Keystone Avenue and the westernmost access drive along East Hanna Avenue) (Exhibit B) shall be eliminated, unless the DPW agrees that the access drives are necessary for operation of a automobile fueling station, including servicing the underground tanks.

## PETITION OVERVIEW

### MODIFICATION

This 1.075-acre site, zoned C-4, is developed with a vacant commercial building and associated unpaved parking. It is surrounded by commercial uses to the north, across East Hanna Avenue, zoned C-4; commercial uses to the south, across Carson Avenue, zoned C-3; a single-family dwelling to the east, zoned D-3; and commercial uses to the west, across South Keystone Avenue, zoned C-3.

Petitions 2016-ZON-083 / 2016-VAR-003 rezoned the site from the C-3 district to the C-4 classification and a variance of development standards to allow for a liquor store with reduced separation from a protected district. These petitions were approved.

Petition 2022-MOD-010 requested modification of the Commitments related to 2016-ZON-083 to Modify Commitment #2 to remove “Automobile Fueling Station” and “Automobile and Light Vehicle Wash” from the list of prohibited uses. This petition was denied.

Once again, this request would modify commitments related to 2016-ZON-083, Commitment #2, to remove “automobile fueling station” and “automobile / light vehicle wash” from the list of prohibited uses. See Exhibit A.

The Comprehensive Plan recommends Village Mixed-Use typology. “Mixed-Use Typologies have a balance of places where people live and places where people work. Generally, only **uses that are compatible with residential uses are recommended in these typologies**. More intense uses, such as hospitals or universities in the ‘Institution-Oriented Mixed-Use’ have conditions attached to them that mitigate their impact on nearby residential neighborhoods.”



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Division of Planning  
Current Planning**

As proposed this modification would not be consistent with the Comprehensive Plan recommendation of village mixed-use.

Staff recommended denial of the 2016 rezoning request because the Plan recommendation at that time specifically recommended the C-3 district / community commercial. Additionally, staff was concerned with the impact on the adjacent neighborhood of the C-4 district permitted uses, including the liquor store and the potential fueling station / convenience store.

Staff recommended denial of the 2022 modification of the Commitments related to the 2016-ZON-083 to modify Commitment #2 to remove “Automobile Fueling Station” and “Automobile and Light Vehicle Wash” from the list of prohibited uses.

The current plan recommendation of village mixed-use would be consistent with the C-3 District and provide for more small-scale and pedestrian-friendly uses and activities. The introduction of an automobile fueling station, a 2,800 square foot convenience store, and an automobile and light vehicle wash would not be appropriate for this site and would negatively impact the residential uses.

After the denial of the 2022 modification to permit an automobile fueling station, a 2800 square-foot convenience store, and an automobile and light vehicle wash, the petitioner has taken the liberty of constructing the 2800 square-foot convenience store. When staff visited the site, the convenience store was not operational, and the parking area was in disrepair.

The addition of an automobile and light vehicle wash would further intensify the use of the site and would be more impactful on surrounding property owners and land uses, particularly the residential neighborhood to the east. Car wash operations typically include the need for drive-through lanes, which are not permitted within 100-feet of a protected district or in the front yards and the exit drive as measured from the vehicle exit of the washing mechanism or activity to the pavement edge of the street would require a minimum of 100 feet in length. These use specific development standards provide the appropriate buffer and separation to minimize the impact on adjacent land uses that can be detrimental and adversely affect surrounding land uses.

The site plan only provides for a convenience store and fuel canopy. Based upon the use specific standards for an automobile and light vehicle wash, it is very likely that variances would be required. Staff believes the need for variances would be a clear indication that the proposed uses would result in over development of the site and negatively impact surrounding land uses because the appropriate buffers would not be provided.

Staff believes that the convenience store is an improvement to the site that had fallen in disrepair and neglect. However, allowing further development of the site for an automobile fueling station and car wash would increase the commercial intensity and be detrimental to the surrounding land uses by introducing increased traffic, noise, lighting and trash into this area.

Furthermore, the five access drives depicted on the site plan, filed-dated June 9, 2024, seemed excessive so staff contacted the Department of Public Works (DPW) regarding the impact of the five access drives on vehicular and pedestrian safety. DPW recommended that the two access drives in proximity of the intersection of South Keystone Avenue and East Hanna Avenue be eliminated (the northernmost access drive along South Keystone Avenue and the westernmost access drive along East Hanna Avenue). See Exhibit B.

If approved, staff would request a commitment requesting that the two access drives depicted on Exhibit B be eliminated, unless the DPW agrees that the access drives are necessary for operation of an automobile fueling station, including servicing the underground tanks.

There have been no changes in the surrounding land uses since the 2022 denial of a similar request that would cause staff to support the modification to provide for an automobile fueling station and automobile and light vehicle wash. In other words, an automobile fueling station and vehicle wash at this location would negatively impact surrounding land uses, particularly the residential uses to the east.

### **Department of Public Works**

The Department of Public Works, Traffic Engineering Section, has requested the dedication and conveyance of a 60-foot half right-of-way along South Keystone Avenue, the dedication and conveyance of a 59.5-foot half right-of-way along East Hanna Avenue and the dedication and conveyance of a 40-foot half right-of-way along Carson Avenue. These dedications would also be consistent with the Marion County Thoroughfare Plan.

### **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.

**GENERAL INFORMATION**

<b>Existing Zoning</b>	C-4	
<b>Existing Land Use</b>	Convenience store	
<b>Comprehensive Plan</b>	Village Mixed-Use	
<b>Surrounding Context</b>	<b>Zoning</b>	<b>Land Use</b>
	North: C-4	Commercial uses
	South: C-3	Commercial uses
	East: D-3	Single-family dwelling
	West: C-3	Commercial uses
<b>Thoroughfare Plan</b>		
South Keystone Avenue	Primary Arterial	Existing 90-foot right-of-way and proposed 120-foot right-of-way.
Hanna Avenue	Primary Arterial	Existing 84-foot right-of-way and proposed 119-foot right-of-way.
Carson Avenue	Secondary Arterial	Existing 60-foot right-of-way and proposed 80-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>	June 9, 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>	N/A
<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 Village Mixed-Use typology. “The Village Mixed-Use typology creates neighborhood gathering places with a wide range of small businesses, housing types, and public facilities. This typology is intended to strengthen existing, historically small-town centers as well as to promote new neighborhood centers. Businesses found in this typology serve adjacent neighborhoods, rather than the wider community. This typology is compact and walkable, with parking at the rear of buildings. Buildings are one to four stories in height and have entrances and large windows facing the street. Pedestrian-scale amenities such as lighting, landscaping, and sidewalk furniture also contribute to a walkable environment in this typology. Uses may be mixed vertically in the same building or horizontally along a corridor. Public spaces in this typology are small and intimate, such as pocket parks and sidewalk cafes. This typology has a residential density of 6 to 25 dwelling units per acre.”

**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 – Village Mixed-Use 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.
  - In master-planned developments, block lengths of less than 500 feet, or pedestrian cut-throughs for longer blocks, are encouraged.
  - Where possible, contributing historic buildings should be preserved or incorporated into new development.

- *Small-Scale Offices, Retailing, and Personal or Professional Services (defined as “commercial uses with minimal outdoor operations, storage, or display on lots of less than 1.5 acres and a height of less than 35 feet.”)*
  - Mixed-use structures are preferred.
  - **Automotive uses (such as gas stations and auto repair) and uses with drive-through lanes are excluded.**
  - **Should not include outdoor display of merchandise.**

#### 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

**2022-MOD-010; 4001 South Keystone Avenue**, requested modification of the commitments related to 2016-ZON-083 to Modify Commitment #2 to remove “Automobile Fueling Station” and “Automobile and Light Vehicle Wash” from the list of prohibited uses, **denied**.

**2016-ZON-083 / 2016-VAR-003; 4001 South Keystone Avenue**, requested rezoning of 1.075 acres from the C-3 district to the C-4 classification and a variance of development standards of the Consolidated Zoning and Subdivision Ordinance to provide for a liquor store, within 70 feet of a protected district, **approved and granted**.

## VICINITY

**2006-ZON-138; 2616 East Hanna Avenue (north of site)**, requested rezoning of 1.82 acres, from the D-4 District, to the C-1 classification to provide for the expansion of a nursing home, **approved**.

**99-UV1-126; 4031-4051 Carson Avenue (south of site)**, requested a variance of use of the Commercial Zoning Ordinance to provide for outdoor sales of produce, flowers, plants and other seasonal good, **granted**.

**98-UV2-92, 2602 East Hanna Avenue (north of site)**; requested variance of use of the Dwelling Districts Zoning Ordinance, to provide for mini-warehouses, **granted**.

**95-Z-83/95-Z-84, 2401 National Avenue (north of subject site)**; requested a rezoning of 9.02 acres, being in the D-7 Dwelling District, to the C-S Commercial Special classification, to provide for a catering hall, offices and warehousing, **approved**.

**87-UV1-111, 3950 South Keystone Avenue (north of site)**; requested a variance of use of the Commercial and Dwelling Districts Zoning Ordinances to provide for a car wash, **granted**.

**83-Z-215, 3647 South Keystone Avenue (north of site)**; requested a rezoning of 0.77 acre, being in the D-4 Dwelling District, to the C-1 classification, to provide for office uses, **approved**.

**74-Z-196, 2540 East Hanna Avenue (west of site)**; requested a rezoning of 5.18 acres, being in the C-3 Commercial District, to the C-4 classification, to provide for a supermarket and retail commercial uses, **approved**.

**70-Z-232, 2600 East Hanna Avenue (north of site)**; requested a rezoning of 17.4 acres, being in the D-4 District, to the D-7 classification, to provide for apartments, **approved**.



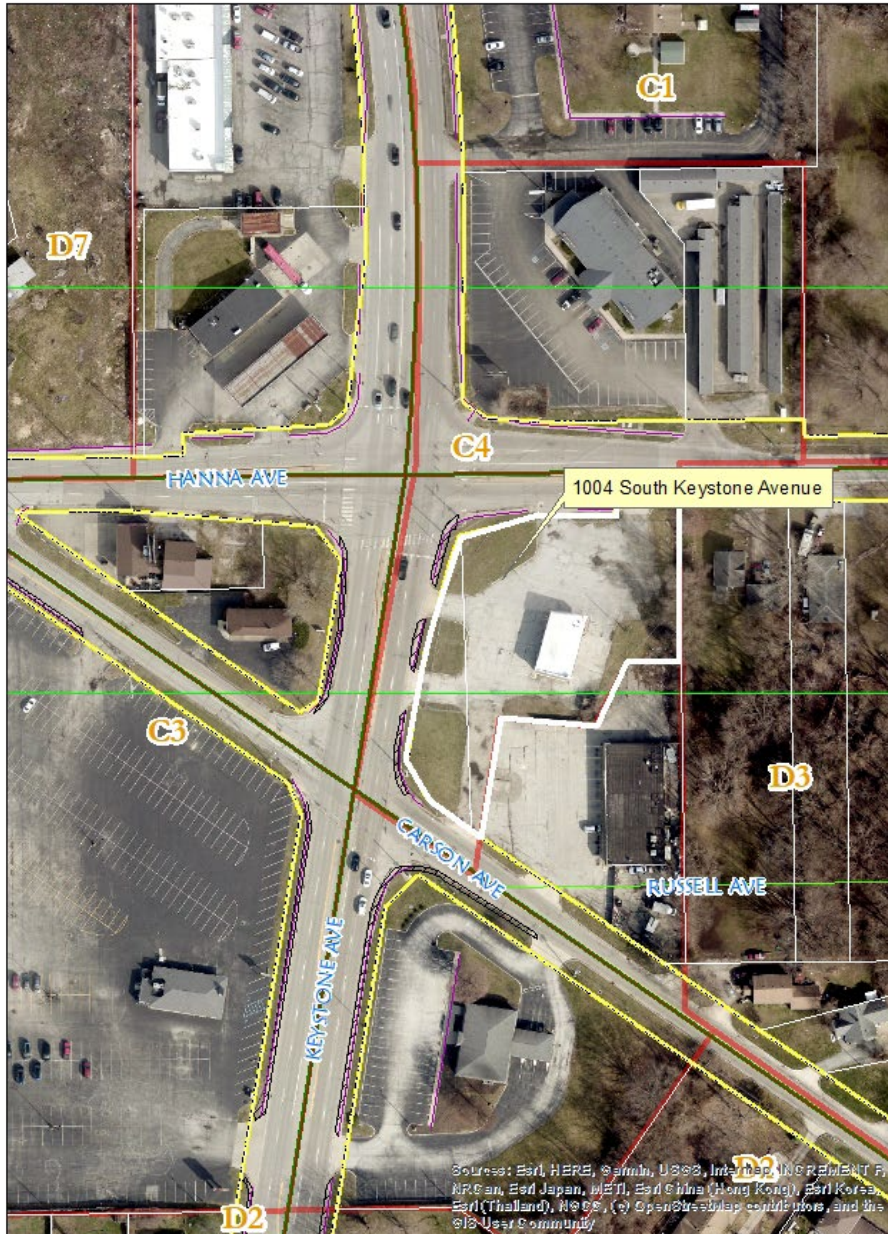


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**70-Z-23, 2400 East Hanna Avenue (west of site);** requested a rezoning of 7.25 acres, being in the D-4 District, to the C-3 classification, to provide for office and retail uses, **approved.**

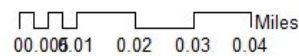
**69-Z-246, 3838 South Keystone Avenue (north of site);** requested a rezoning of 1.97 acres, being in the D-4 Dwelling District, to the C-3 classification, to provide for retail uses, **approved..**

EXHIBITS



Source: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NOAA, Swisstopo, © OpenStreetMap contributors, and the GIS User Community

4001 South Keystone Avenue



**MEMORANDUM OF EXAMINER'S DECISION**

**2024-MOD-011**

**4001 South Keystone Avenue**

The petition requests the modification of commitments related to 2016-ZON-083 to modify commitment #2 to remove “automobile fueling station” from the list of prohibited uses.

Your Hearing Examiner visited the site prior to the hearing and noted the vacant commercial building and unpaved parking on it. Commercial uses are north, south, and west of the site, and residential use is to the east.

The petitioner’s representative explained that the site was rezoned to C-4 in 2016 to allow a liquor store to move across the street to the site, with commitments including the prohibition of an automobile fueling station. The relocation did not happen, and the site has been vacant for about 6 years. Petition 2022-MOD-010 also requested a modification of commitments to remove “Automobile Fueling Station” and “Automobile and Light Vehicle Wash” from the list of prohibited uses, and it was denied. The petitioner’s representative stated that neighbors support the current modification, and presented a petition of support and a letter of support from the City-County Councillor. About 10 supporters attended the hearing.

About 10 remonstrators attended the hearing, and the primary remonstrator represented an automobile fueling station with convenience store in the area. There was also a petition of opposition. Concerns expressed included the number of businesses owned by the petitioner, enforcement action on this site, and the addition of another automobile fueling station and convenience store in the area.

Staff explained that, based on the Comp Plan and Pattern Book, the use of the site should be pedestrian oriented and should exclude automobile fueling stations. Staff also opined that the proposed use would likely generate noise, trash, and bright lights.

In your Hearing Examiner’s opinion, this public hearing is still not the proper forum to address the issue of competition between like businesses in the area. As your Hearing Examiner opined in 2022, the extremely limiting commitments approved as part of 2016-ZON-083 were made intentionally to lessen the impact of the C-4 zoning district. The reasons for the denial recommendation made in 2022 remain valid today. Denial of this petition was recommended.

For Metropolitan Development Commission Hearing on September 4, 2024



**EXHIBIT A**

A201700053736 *JS*

05/09/2017 10:32 AM  
KATHERINE SWEENEY BELL  
MARION COUNTY IN RECORDER  
FEE: \$ 31.50  
PAGES: 7  
By: SC

**STATEMENT OF COMMITMENTS**

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE  
MADE IN CONNECTION WITH A REZONING OF PROPERTY OR PLAN APPROVAL**

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 that parcel of real estate:

**Legal Description:** *See the attached "Exhibit A".*

**Statement of COMMITMENTS:**

1. The owner agrees to abide by the Open Occupancy and Equal Employment Opportunity Commitments required by Metropolitan Development Commission Resolution No. 85-R-69, 1985, which commitments are attached hereto and incorporated herein by reference as Attachment "A".
2. The following uses, as defined in the Zoning Ordinance for Marion County, Indiana, shall be prohibited as permitted uses on the subject property: Methadone Clinic or Treatment Facility; Substance Abuse Treatment Facility; Adult Entertainment Business, including retail; Night Club or Cabaret; Automobile Fueling Station; Automobile, Motorcycle and Light Vehicle Service, Repair, Sales or Rental; Temporary or portable Video Boards advertising for sale services or products not available on the subject real estate; Automobile and Light Vehicle Wash; Blood Plasma Center; Tattoo Parlor; Power Generating Facility; Pawn Shop; Firearm Sales; Firework Sales; Seasonal sales unless associated with a business that is open year around; Emergency Shelter; Check Cashing or Validation Services; the sale of merchandise in tents or trailers; and Recycling Station.

These COMMITMENTS shall be binding on the owner, subsequent owners of the real estate and other persons acquiring an interest therein; provided that Commitment #1 (Open Occupancy and Equal Opportunity Commitments) shall not be binding on an owner, subsequent owners or other person acquiring an interest therein if such persons are exempt persons or are engaged in an exempt activity as defined on Attachment "A" which is attached hereto and incorporated herein by reference. These COMMITMENTS may be modified or terminated by a decision of the Metropolitan Development Commission made at a public hearing after proper notice has been given.

*MDC's Exhibit B -- page 1 of 7*

M11224070.3

Metropolitan Development

MAR 29 2017

Division of Planning



Metropolitan Development  
Jun 27 2022  
Division of Planning



COMMITMENTS contained in this instrument shall be effective upon:

- (a) the adoption of rezoning petition #2016-ZON-083 by the City-County Council changing the zoning classification of the real estate from a C-3 zoning classification to a C-4 zoning classification; or
- (b) the adoption of approval petition # \_\_\_\_\_ by the Metropolitan Development Commission;

and shall continue in effect for as long as the above-described parcel of real estate remains zoned to the C-4 zoning classification or until such other time as may be specified herein.

These COMMITMENTS may be enforced jointly or severally by:

1. The Metropolitan Development Commission;
2. Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred-sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for the rezoning or approval. 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 Marion County which list the current owners of record. (This paragraph defines the category of persons entitled to receive personal notice of the rezoning or approval under the rules in force at the time the commitment was made);
3. Any person who is aggrieved by a violation of either of the Commitments contained in Commitment #1 (Open Occupancy and Equal Employment Opportunity Commitments).

The undersigned hereby authorizes the Division of Planning of the Department of Metropolitan Development to record this Commitment in the office of the Recorder of Marion County, Indiana, upon final approval of petition #2016-ZON-083.

IN WITNESS WHEREOF, owner has executed this instrument this 20 day of March, 2017.

Q S L COMPANY

By: Mary Deborah Turnerford

*MDC's Exhibit B - - page 2 of 7*

111224070.3

Metropolitan Development

MAR 29 2017

Division of Planning

Metropolitan Development Jun 27 2022 Division of Planning
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View of site looking south



View of site looking east





View of site looking northwest



View from site looking northwest across South Keystone Avenue



View from site looking west across South Keystone Avenue and Carson Avenue



View from site looking northwest across intersection of East Hanna Avenue and South Keystone Avenue



View from site looking north across East Hanna Avenue



View from site looking northeast across East Hanna Avenue



View from site looking east at adjacent property



View from site looking southeast at adjacent property



View from site looking south at adjacent commercial property



View from site looking south at adjacent parking lot