

**MINUTES OF THE MEETING
OF THE
LOUISVILLE METRO BOARD OF ZONING ADJUSTMENT**

APRIL 6, 2015

A meeting of the Louisville Metro Board of Zoning Adjustment was held at 8:30.A.M. on Monday, April 6, 2015, 514 West Liberty Street, Old Jail Building, Old Jail Court Room, Louisville, Kentucky.

Members present:

David Proffitt, Chairperson
Mike Allendorf, Vice Chairperson
Rosalind Fishman, Secretary
Dean Tharp

Members absent:

Member Bergmann
Member Liggin
Member Jarboe

Staff members present:

Emily Liu, Director, Planning & Design Services
John Carroll, Legal Counsel
Steve Hendrix, Planning Supervisor
Joe Reverman, Planning Supervisor
Latondra Yates, Planner II
Beth Stevenson, Management Assistant

The following cases were heard:

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APPROVAL OF MINUTES

APRIL 6, 2015 BOARD OF ZONING ADJUSTMENT MEETING MINUTES

On a motion by Member Fishman, seconded by Member Tharp, the following resolution was adopted:

RESOLVED, that the Board of Zoning Adjustment does hereby **APPROVE** the minutes of the meeting conducted on April 6, 2015.

YES: Members Proffitt, Tharp and Fishman.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Bergmann, Liggin and Jarboe.**

ABSTAINING: Member Allendorf.

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APRIL 6, 2015

BUSINESS SESSION:

CASE NO. 15CUP1001

Request: Landfill Conditional Use Permit modifications to allow a Solid Waste Management Facilities #2, construction/demolition debris facilities with grinding of asphalt shingles and to allow a Solid Waste Management Facilities #4, outdoor recycling facilities (metals, cardboard, wood etc.) in a M-3 Zoning District.

Project Name: Outer Loop Recycling and Disposal Facility

Location: 2673 Outer Loop

Owner: Waste Management of Kentucky

Applicant: Marie Burnett, District Manager

Representative: Glenn Price, Esq.
400 W. Market Street, Suite 3200
Louisville, KY 40202

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 13—Vicki Aubrey Welch
Staff Case Manager: Steve Hendrix, Planning Supervisor

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

Agency Testimony:

Staff case manager, Steve Hendrix discussed the case summary, standard of review and staff analysis from the staff report. He said Mr. Price gave him an updated noise study, which concluded that there will be no effect on the area. He said the applicant also held a neighborhood meeting on November 18, 2014, where there were no objections

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The following spoke in favor of this request:

Glenn Price, Attorney.

Summary of testimony of those in favor:

Glenn Price, attorney for the applicant, said this facility has been here for many years and that companies are increasing recycling to reduce waste. Chair Proffitt asked if they are adding additional facilities. Mr. Price said no.

The following spoke neither for nor against the request:

No one.

Summary of testimony of those who spoke neither for nor against:

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

Board of Zoning Adjustment deliberation.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.

Modified Conditional Use Permit:

On a motion by Member Fishman, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Modified Conditional Use

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BUSINESS SESSION:

CASE NO. 15CUP1001

Permit for a landfill from Section 4.2.50 of the Land Development Code to allow, the Solid Waste Management Facilities #2 for the Construction/Demolition Debris Facilities to allow grinding of asphalt shingles; and from Section 4.2.50 of the Land Development Code to allow Waste Management Facilities #4 for the Outdoor Recycling Facilities 9 metals, cardboard, wood, aggregate and other materials); and

WHEREAS, the Board finds that the requested modification is compatible with surrounding land uses and the general character of the area since there are other recycling businesses, auto salvaging, the Ford Plan and an LG&E substation; a landscaping operation and CSX Transportation;

WHEREAS, the Board finds that the necessary facilities (both on and off-site), such as transportation, sanitation, water, sewer etc. because the proposed uses of construction/demolition debris facility and an outdoor recycling facility will become part of the overall operation of the existing landfill, which has the necessary public facilities; and

WHEREAS, the Board finds that the proposal meets all applicable policies of the Comprehensive Plan and meets the specific standards required to obtain the modifications of the Conditional Use Permit;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Modified Conditional Use Permit to allow Solid Waste Management Facilities #2—Construction/Demolition Debris Facilities to allow grinding of asphalt shingles; and Solid Waste Management Facilities #4—Outdoor Recycling Facilities (metals, cardboard, wood, aggregate and other materials on the site **SUBJECT** to the applicable previously approved Conditions of Approval.

YES: Members Proffitt, Tharp, Allendorf and Fishman.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Bergmann, Liggin and Jarboe.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15VARIANCE1010

Request: Variance from the Land Development Code to allow an existing fence to exceed the maximum height.

Project Name: Fence

Location: 609 Winyan Lane

Owner: Adam Green
609 Winyan Lane
Louisville, KY 40223

Applicant: Same as Owner

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 18—Marilyn Parker
Staff Case Manager: Sherie' Long, Landscape Architect

(CONTINUED FROM MARCH 16, 2015)

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

Agency Testimony:

Latondra Yates, presented the case for staff case manager, Sherie' Long and discussed the case summary, standard of review and staff analysis from the staff report. She said this case was continued to allow the applicant time to consult the homeowners' association and the area resident who was opposed to the fence.

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The following spoke in favor of this request:
Adam Green.

Summary of testimony of those in favor:

Adam Green, the applicant, said the homeowners association will be handling such issues differently now, informing the community about permits before they build. He said the homeowners association did not tell him to move the fence or reduce the height. Mr. Green submitted letters of support from people who live close to him.

The following spoke neither for nor against the request:
No one.

Summary of testimony of those who spoke neither for nor against:
No one.

The following spoke in opposition to this request:
No one.

Summary of testimony of those in opposition:
No one.

Deliberation:

Member Allendorf said the fence is protecting the property with the in ground pool. Member Fishman said she thinks the fence is too close to the sidewalk, but that there is no opposition here today. Chair Proffitt said the applicant has done what he could do, to remedy the situation.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

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CASE NO. 15VARIANCE1010

WHEREAS, the Board finds from the file of this case, the staff report, the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from Chapter 4, Section 4.4.3.A.1.a.i of the Land Development Code to allow an existing fence to exceed the maximum height; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the existing 6 ft. tall fence is not blocking visibility at the street intersection or interfering with the traveling public; nor is the fence blocking or interfering with the pedestrian use of the adjacent sidewalk; and because the location of the fence is also not impeding or interfering with the ability of the property owner to safely enter or exit the driveway; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because there are other 6 ft. tall fences in the neighborhood; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because it will be protecting the homeowner and neighborhood children due to the pool; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because there are other similar fence heights in the neighborhood; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because the property is a corner lot where the sidewalk ends; also because the owner has a pool so the additional height will keep neighborhood kids off his property; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land and create an unnecessary hardship because the fence would need to be relocated out of the 25 ft. setback to maintain the existing 6 ft. height or, the fence would need to be reduced by 2 feet to stay within the 25 ft. setback;

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CASE NO. 15VARIANCE1010

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow an existing fence to be 6 ft. tall along the north property line.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Bergmann, Liggin and Jarboe.**

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15VARIANCE1011

Request: Variance from the Land Development Code to allow a proposed code required exterior staircase to encroach into the required south side yard.

Project Name: None (multi-family residential)

Location: 1444 S. 2nd Street

Owner: Wilder Park Properties, LLC
Anna Tatman, Partner
4006 South Brook Street
Louisville, KY 40214

Applicant: Same as Owner

Representative: Gil Stein & Associates Architects
Gil Stein, Jr.
1932 Roanoke Avenue
Louisville, KY 40205

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 6—David James

Staff Case Manager: Latondra Yates, Planner II

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

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Agency Testimony:

Latondra Yates presented the case for staff case manager, Sherie' Long and discussed the case summary, standard of review and staff analysis from the staff report. She said the variance is related to renovations to the existing multi-family building to include a code-required outdoor staircase for fire escape. She said the applicant received a Certificate of Appropriateness from Historic Landmarks & Preservation on October 24, 2014.

The following spoke in favor of this request:

Gil Stein, the applicant's architect submitted information into the record.

Summary of testimony of those in favor:

Gil Stein, the applicant's architect, said the exterior staircase is needed so the 2nd floor will have a fire escape route.

The following spoke neither for nor against the request:

No one.

Summary of testimony of those who spoke neither for nor against:

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

The Board said the staircase is needed for the safety of the tenants.

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After the public hearing in open business session, on a motion by Member Fishman, seconded by Member Allendorf, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a variance from Chapter 5.2.D.6., Table 5.2.2 of the Land Development Code to allow an exterior staircase to encroach into the required south side yard; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the exterior exit staircase is a safety requirement of the building code; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because the building will continue to be used for multi-family residential; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the exterior exit staircase is a safety requirement of the building code; and

WHEREAS, the Board finds that the variance will not allow an unreasonable circumvention of the zoning regulations because the majority of the side yard will be observed; and

WHEREAS, the Board finds that the existing building 3rd floor exit door opens to a roof area with no other code allowed location for a 2nd floor exit; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the exterior staircase is required by code; and

WHEREAS, the Board finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation from which relief is sought because of the rehabilitation of an 1880's building into an

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apartment building which doesn't meet the code if the exterior staircase is not built to provide a secondary exit for tenants on the second floor;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow the proposed exterior staircase to be 3 inches from the south property line.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members
Bergmann, Liggin and Jarboe.**

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15VARIANCE1009

Request: Variance from the Land Development Code to allow parking and vehicular maneuvering to encroach into the required front yard; two landscape buffer waivers and a vehicular use area landscape buffer.

Project Name: Value Place Hotel

Location: 3300 Preston Highway

Owners: Carol David Gold
9023 Cynthia Street
West Hollywood, CA 90069

Joy Behr
1400 Willow Avenue, #1105
Louisville, KY 40204

Stuart Yudofsky
11010 Wickwood
Houston, TX 77024

Applicant: TGC Development Group
Quentin Ellis
125 N. Emporia, Ste. 202
Wichita, KS 67272

Attorney: Wyatt, Tarrant & Combs
Deborah Bilitski
500 W. Jefferson Street, Ste. 2800
Louisville, KY 40202

Representative: Land Design & Development
Ann Richard
503 Washburn Avenue
Louisville, KY 40222

Jurisdiction: Louisville Metro

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CASE NO. 15VARIANCE1009

COUNCIL DISTRICT 21—Dan Johnson

Staff Case Manager: Sherie' Long, Landscape Architect

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

Agency Testimony:

Latondra Yates, Planner II, presented the case for staff case manager, Sherie' Long and discussed the case summary, standard of review and staff analysis from the staff report. She said the applicant wants to remove existing structures and build a 124 room, 4 story, extended stay hotel. The applicant will provide streetscape improvements including new sidewalks with a brick insert, new light fixtures and street tree planting. Two of the existing street trees will be removed to accommodate a TARC shelter and trash receptacle, but will be replanted elsewhere on the property.

The following spoke in favor of this request:

Deborah Bilitski, Attorney.

Ann Richard.

Summary of testimony of those in favor:

Deborah Bilitski, the applicant's attorney, said the proposed extended stay hotel (Value Place Hotel) is needed in the area with close access to the expressways and other attractions nearby. She said the property now, looks degraded and that her client will be spending 6 ½ million dollars to renovate the property.

Ann Richard said they will have 1 parking space per room as required; and that no quantity of trees will be lost.

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Deborah Bilitski said there will be an 11% reduction in impervious surface; and they will be planting 52 new trees and shrubs.

Member Allendorf asked where the employees will park. Ms. Bilitski said 6 to 8 of the employees will live on the site; and that her client could move some employee parking off site. Ms. Bilitski added that they will not need a variance for signage. Ms. Richard said they will provide attached signage, which is shown on the elevations, but that no freestanding sign is proposed

The following spoke neither for nor against the request:

No one.

Summary of testimony of those who spoke neither for nor against:

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

Deliberation:

The Board said the new hotel will be an improvement to the area. Chair Proffitt said to include a condition of approval about the proposed landscaping will look similar as presented at today's public hearing.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.

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Variance—To allow parking and vehicular maneuvering to encroach into the required front yard setback:

After the public hearing in open business session, on a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review and additional considerations, where the four standard of review requirements control over the additional considerations; the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a variance from Section 5.3.2.C.2.a. of the Land Development Code to allow parking and vehicular maneuvering to encroach into the required front yard setback, 65 feet from the street centerline along Preston Highway frontage; and

WHEREAS, the Board finds that the requested variance will not adversely affect the public health, safety or welfare because the location of the parking and vehicular maneuvering area is following the established pattern of the vicinity; and because adjacent properties, including those across the street, all have parking located in the front of the building and in the front setbacks; also, a landscape buffer with tree and shrub plantings will be provided along Preston Highway to reduce the impact of the location of the parking; and

WHEREAS, the Board finds that the variance will not alter the essential character of the general vicinity because parking and vehicular maneuvering area located in front of the building and in the front setback is the established pattern of the vicinity; and because adjacent properties including across the street all have parking located in front of the building; and

WHEREAS, the Board finds that the variance will not cause a hazard or nuisance to the public because the buffer planting are proposed along the street frontage which will reduce the impact of the location of the parking and maneuvering area; and because parking in front of the building and in the setback is the established pattern of the vicinity; and

WHEREAS, the Board finds that the requested variance will not allow an unreasonable circumvention of the zoning regulations because the building is

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meeting the setback requirements—only the first row of parking spaces adjacent to the street is located in the setback; and because the location of the proposed parking is similar to other surrounding properties; and

WHEREAS, the Board finds that the variance arises from special circumstances which do not generally apply to land in the general vicinity because the lot is an odd shape, angled adjacent to the rail road tracks to the north and I-65 to the west; and because neither the existing development on the subject site nor any of the surrounding developments meets the setback requirements along Preston Highway; and

WHEREAS, the Board finds that the strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because 16 proposed parking spaces would be lost and without these parking spaces, the development would not be able to be built since they are at the minimum amount of parking spaces (112);

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the variance to allow parking and maneuvering to be 47 feet from the street centerline along Preston Highway frontage.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.

ABSTAINING: No one.

Waiver #1—To allow the encroachment of proposed Vehicle Use Area (VUA) (pavement and curb) into the I-65 Expressway 15' Landscape Buffer Area (LBA) along the western perimeter:

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the

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public hearing that the applicant is requesting a waiver from Section 10.2.4.B and 10.2.7 of the Land Development Code to allow the encroachment of proposed VUA (pavement and curb) into the I-65 Expressway 15' LBA along the western perimeter; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners, since the applicant is providing perimeter landscape plantings which meet the minimum requirements even with the encroachment of the proposed pavement; and

WHEREAS, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual intrusions and mitigate when appropriate; and because Guideline 3, policies 21 and 22, calls for appropriate transitions between uses that are substantially different in scale and intensity or density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage and other visual nuisances; and because Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened or buffered; and because Guideline 13, policy 4 calls for ensuring appropriate landscape design standards for different land uses within urbanized, suburban, and rural areas; and because the intent of LBA's is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants; and even though there is an encroachment of the pavement into the landscape buffer area, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers; also, the tree canopy requirements are being fulfilled for the site; and

WHEREAS, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment of

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the vehicular maneuvering area is the minimum necessary to allow the necessary parking to be provided; and because the required tree and shrub plantings are being provided as required within the perimeter buffer; and

WHEREAS, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for noncompliance with the requirements to be waived (net beneficial effect); the proposed redevelopment will include removing a portion of the existing asphalt and restoring a 9-foot LBA along Preston Highway where none currently exists on the subject property; in addition, perimeter and interior landscaped areas and tree canopy will be provided per the Land Development Code requirements; and because the landscaping improvements coupled with an attractively-designed new building, will result in a significant improvement over the existing site conditions and will enhance the aesthetic character of Preston Highway corridor;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the encroachment of proposed VUA (pavement and curb) into the I-65 Expressway 15' LBA along the western perimeter **ON CONDITION** that the proposed landscaping be similar to what was presented on the PowerPoint slide at today's hearing.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.

ABSTAINING: No one.

Waiver #2—To allow the encroachment of proposed VUA (pavement and curb) into the Preston Highway 15' VUA/LBA along the eastern perimeter:

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 10.2.10 of

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the Land Development Code, to allow the encroachment of proposed VUA (pavement and curb) into the Preston Highway 15' VUA/LBA along the eastern perimeter; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners since the applicant is providing perimeter landscape plantings which meets the minimum requirements even with the encroachment of the proposed pavement; and because the location of the parking is similar to the surrounding properties; and

WHEREAS, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 3 (Compatibility), which calls for the protection of roadway corridors and public areas from visual intrusions, for mitigation of parking areas so as not to negatively impact nearby residents and pedestrians, and for parking areas adjacent to streets to be screened and buffered; and because the waiver will not violate Guideline 13 (Landscape Character) which calls for the protection of parkways through standards for buffers, landscape treatment, lighting and signs; and because the purpose of vehicle use area landscape buffer areas is to improve the appearance of VUA's and property abutting public rights-of-way; even though there is an encroachment of the pavement into the LBA, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers; plus, the tree canopy requirements are being fulfilled for the site; and

WHEREAS, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the encroachment of the vehicular maneuvering area is the minimum necessary to allow the necessary or required parking; plus, the required tree and shrub plantings are being provided as required within the perimeter buffer; and

WHEREAS, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for noncompliance with the requirements to be waived (net beneficial effect); the proposed redevelopment will include removing a portion of the existing asphalt and restoring a 9-foot LBA along Preston Highway where none currently exists on the subject property; in addition, perimeter and interior landscaped areas and tree canopy will be provided per the Land Development Code requirements; and because the landscaping improvements coupled with an attractively-designed

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new building, will result in a significant improvement over the existing site conditions and will enhance the aesthetic character of Preston Highway corridor;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow the encroachment of the proposed vehicular use area (pavement and curb) into the Preston Highway 15' VUALBA along the eastern perimeter **ON CONDITION** that the proposed landscaping will be substantially the same as what was presented at today's hearing.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.

ABSTAINING: No one.

Waiver #3—To allow a 100% overlap of a utility easement, existing 25' Louisville Water Company into the Preston Highway 15'VUALBA along the eastern perimeter:

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review the site plan; the PowerPoint presentations; the evidence including the applicant's justification statement, testimony and discussion at the public hearing that the applicant is requesting a waiver from Section 10.2.4.B to allow a 100% overlap of a utility easement, existing 25' Louisville Water Company, into the Preston Highway 15' VUALBA along the eastern perimeter; and

WHEREAS, the Board finds that the requested waiver will not adversely affect adjacent property owners since the easement is existing; and because the required buffer and tree plantings are being provided; also because the existing trees located along the street frontage are to be preserved; and

WHEREAS, the Board finds that the waiver will not violate specific guidelines of Cornerstone 2020 because Guideline 3, policy 9 calls for the protection of the character of residential areas, roadway corridors and public spaces from visual

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intrusions and mitigate when appropriate; and because Guideline 3, policies 21 and 22 calls for appropriate transitions between uses that are substantially different in scale and intensity of density, and to mitigate the impact caused when incompatible developments occur adjacent to one another through the use of landscaped buffer yards, vegetative berms and setback requirements to address issues such as outdoor lighting, lights from automobiles, illuminated signs, loud noise, odors, smoke, automobile exhaust or other noxious smells, dust and dirt, litter, junk, outdoor storage and visual nuisances; and because Guideline 3, policy 24 states that parking, loading and delivery areas located adjacent to residential areas should be designed to minimize the impacts from noise, lights and other potential impacts, and that parking and circulation areas adjacent to streets should be screened for different land uses within urbanized, suburban and rural areas; and because the intent of landscape buffer areas is to create suitable transitions where varying forms of development adjoin, to minimize the negative impacts resulting from adjoining incompatible land uses, to decrease storm water runoff volumes and velocities associated with impervious surfaces, and to filter air borne and water borne pollutants; and even though there is an encroachment of the easement into the LBA, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers; also, the tree canopy requirements are being fulfilled for the site; and

WHEREAS, the Board finds that the extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant since the easement is an existing condition; and because even with the encroachment of the easement into the LBA, the applicant is providing plantings which meet the minimum required tree and shrub plantings for the perimeter buffers; plus, the tree canopy requirements are being fulfilled for the site; and

WHEREAS, the Board finds that the applicant has incorporated other design measures that exceed the minimums of the district and compensate for noncompliance with the requirements to be waived (net beneficial effect); the proposed redevelopment will include removing a portion of the existing asphalt and restoring a 9-foot LBA along Preston Highway where none currently exists on the subject property; in addition, perimeter and interior landscaped areas and tree canopy will be provided per the Land Development Code requirements; and because the landscaping improvements coupled with an attractively-designed new building, will result in a significant improvement over the existing site conditions and will enhance the aesthetic character of Preston Highway corridor;

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **GRANT** the waiver to allow a 100% overlap of a utility easement (existing 25' Louisville Water Company) into the required Preston Highway 15' VUALBA along the east property line **ON CONDITION** that the proposed landscaping be substantially the same as what was presented at today's hearing.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

**NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe,
Bergmann and Liggin.**

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15VARIANCE1014

Request: Variance from the Land Development Code to allow a proposed building to exceed the maximum setback of 25 feet from Shelbyville Road; and waivers from the Land Development Code for the parking location; to not provide a sidewalk; to not provide a pedestrian connection; and landscape waivers

Project Name: Springdale Automotive - Eastwood

Location: 16119 Eastwood Cut Off Road

Owner: Springdale Properties, LLC
Kurt & Karen Shelton
18919 Long Grove Way
Louisville, KY 40245

Applicant: Lichtefeld, Inc.
Paul Lichtefeld, Jr.
908 S. 8th Street
Louisville, KY 40203

Representative: Milestone Design Group, Inc.
Mark Madison
108 Daventry Lane
Louisville, KY 40223

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 19—Julie Denton

Staff Case Manager: Sherie' Long, Landscape Architect/Latondra Yates, Planner II

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available

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to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

DISCUSSION:

Latondra Yates stated that the applicant's representative would like a continuance to work with the Eastwood Community Council.

Mark Madison, the applicant's representative, said they need approximately another month to work some issues out.

Steve Hendrix, Planning Supervisor, said he could have April 20, 2015 or May 4, 2015. Mr. Madison chose May 4, 2015.

There were two people that showed up to testify, and said that they are not opposed to the continuance.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **CONTINUE** this case to **MAY 4, 2015** agenda.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 15CUP1003

Request: Conditional Use Permit to allow a heliport in a C-3 zoning district.

Project Name: Kentucky One Health Jewish Heliport

Location: 250 Abraham Flexner Way

Owner: Jewish Hospital & St. Mary's Healthcare
Steve Amsler, VP of Operations
250 Abraham Flexner Way
Louisville, KY 40202

Applicant: Jewish Hospital
Steve Amsler
530 S. Jackson Street
Louisville, KY 40202

Representative: Sabak, Wilson & Lingo, Inc.
Kelli Jones
608 S. Third Street
Louisville, KY 40202

Architect: JRA Architects
Steve Wiser
829 E. Market Street, Suite B
Louisville, KY 40206

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 4—David Tandy

Staff Case Manager: Jon Crumbie, Planner II/Steve Hendrix, Planning Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

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Agency Testimony:

Steve Hendrix, Planning Supervisor, presented the case for staff case manager, Jon Crumbie and discussed the case summary, standard of review and staff analysis from the staff report. He said the applicant wants to reinstall a heliport on top of an existing parking garage for quicker access to the hospital. Mr. Hendrix explained the modifications the applicant requested for specific standards of the CUP, Items A., D., E., and F (page 3 of staff report). Chair Proffitt questioned the parking near the heliport.

The following spoke in favor of this request:

Kelli Jones.

Steve Wiser.

Summary of testimony of those in favor:

Kelli Jones, the applicant's representative, said the garage will still be used for parking, but not allowed within so many feet of the heliport. She said the helicopter will be stationed at Bowman Field, drop off patients and return to Bowman Field.

Steve Wiser, the applicant's architect, said there will be fencing installed to keep people from parking too close to the heliport. He said this will be primarily for cardiac patients

Chair Proffitt asked if this needed FAA approval. Ms. Jones said yes, that they've received their approval, KTC and Public Works.

Member Allendorf asked if they have the necessary fire equipment. Mr. Wiser said yes, and that the FAA has had several people from Kansas City to inspect it.

The following spoke neither for nor against the request:

No one.

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Summary of testimony of those who spoke neither for nor against:
No one.

The following spoke in opposition to this request:
No one.

Summary of testimony of those in opposition:
No one.

Deliberation:
Board of Zoning Adjustment deliberation.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.

Conditional Use Permit to allow a heliport in a C-3 Zoning District:

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow a heliport in a C-3 zoning district; and

WHEREAS, the Board finds that the proposal is compatible with surrounding land uses and the general character of the area because the subject site is located in the downtown area that has a mix of medical uses and is a focal point for the downtown medical complex and Louisville Metro; and because all the medical uses in the area have similar scale, intensity, traffic, noise and lighting; and

WHEREAS, the Board finds that the necessary public facilities (both on and off-site) because the proposal has been review by Transportation Planning and MSD and both have approved the plan; and

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WHEREAS, the Board finds that the proposal complies with specific standards required to obtain the conditional use permit with the following modifications: Item A., where the landing area will be 35 feet from the property line instead of the required 50 feet; Item D., where the heliport will be 19 feet away from the property line instead of the required 30 feet; and Item E., the heliport will be open 24 hours a day for the transportation of emergency patients; and Item F., no parking will be provided because the parking for the garage will remain a safe distance from the helipad;

RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a heliport in a C-3 zoning district on the site **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a heliport without further review and approval by the Board.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 14CUP1037

Request: Conditional Use Permit to allow a mini-warehouse in a C-2 Zoning District.

Project Name: U-Box/U-Haul Store

Location: 4612 Preston Highway

Owner: AMERCO Real Estate Company
Carlos Vizcarra
2721 N. Central Ave, Ste. 700
Phoenix, AZ 85004

Applicant: Same as Owner

Representative: Civil Design, Inc.
Kim Dunaway
3404 Stony Spring Circle
Louisville, KY 40220

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 21—Dan Johnson

Staff Case Manager: Jon Crumbie, Planner II/Steve Hendrix, Planning Supervisor

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

Agency Testimony:

Staff case manager, Steve Hendrix discussed the case summary, standard of review and staff analysis from the staff report. He said the CUP is for a proposed

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4,994 sq. ft. mini-warehouse building for the storage of U-Box Pods. A Revised Detailed District Development Plan and 3 waivers were approved on February 18, 2015, Case No. 14DEVPLAN1179. He said the applicant would like to modify the listed requirements, Items A, B, F & G (on page 3 and 4 of the staff report).

The following spoke in favor of this request:

Kim Dunaway.

Chris Nester, U-Hal, 4128 Bardstown Road, Louisville, KY 40218.

Summary of testimony of those in favor:

Kim Dunaway, the applicant's representative, said they will be subdividing the property into two lots but will still be connectivity. She said they do not need to modify Item B, regarding the setback because the property to the south is commercial. She said they will still be providing the required landscaping. Member Allendorf asked how they would prevent someone from storing hazardous material.

Chris Nester, the applicant, said there only procedure would be contractual.

Ms. Dunaway agreed to install the landscaping as presented today.

The following spoke neither for nor against the request:

No one.

Summary of testimony of those who spoke neither for nor against:

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

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Deliberation:

Chair Proffitt said to include another condition of approval regarding the proposed landscaping.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.

Conditional Use Permit to allow a mini-warehouse in a C-2 Zoning District:

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit to allow a mini-warehouse in a C-2 Zoning District; and

WHEREAS, the Board finds that the proposal complies with all applicable policies of the Comprehensive Plan; and because lighting and signage will be code compliant; and three waivers have been previously approved by the Development Review Committee; and

WHEREAS, the Board finds that the proposal includes necessary public facilities (both on and off-site) such as transportation, sanitation, water, sewer, drainage etc. because the request has been reviewed and approved by the Transportation Planning Department and MSD; and

WHEREAS, the Board finds that the proposal complies with specific standards required to obtain the conditional use requested, except, the Board will modify Item A. where landscaping will be provided along Preston Highway; and because the applicant will screen the loading area from the adjacent restaurant with a 6 ft. tall wooden privacy fence and landscaping; and the Board will also modify Item F. because the loading doors and vehicle maneuvering areas will be located toward the exterior of the property; and Item G., because the proposed building will be 33'11" in height;

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a mini-warehouse in a C-2 Zoning District on the site **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a mini-warehouse
3. The landscaping shall be substantially the same as presented at today's public hearing.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.

ABSTAINING: No one.

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NEW BUSINESS

CASE NO. 14CUP1038

Request: Conditional Use Permit to allow a community service facility (outpatient behavioral counseling) in a UN Zoning District.

Project Name: Maryhurst Behavioral Health Counseling

Location: 3201 Portland Avenue

Owner: Portland Avenue Presbyterian Church
Steve Rose
3126 Portland Avenue
Louisville, KY 40212

Applicant: Maryhurst, Inc.
Steve Ochs
1015 Dorsey Lane
Louisville, KY 40223

Attorney: Barber, Banaszynski & Hiatt, PSC
Thomas J. Banaszynski
802 Lily Creek Road
Louisville, KY 40243

Representative: Bailey & Associates Architects
Mark Bailey
1536 Lytle Street
Louisville, KY 40203

Jurisdiction: Louisville Metro

COUNCIL DISTRICT 5—Cheri Bryant Hamilton
Staff Case Manager: Latondra Yates, Planner II

Notice of this public hearing was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicant.

The staff report prepared for this case was incorporated into the record. The Board members received this report in advance of the hearing, and was available

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to any interested party prior to the public hearing. (The staff report is part of the case file maintained at the Planning and Design Services offices located at 444 S. 5th Street).

Agency Testimony:

Staff case manager, Latondra Yates discussed the case summary, standard of review and staff analysis from the staff report. The CUP is to allow an outpatient behavioral counseling facility on the 1st floor of an existing 2-story house. The house is occupied on the 2nd floor; and improvements will be made to make the property ADA compliant. The site is in the area covered under the "Portland Ordinance", Ordinance Number 16, Series 2006, that requires development in the Portland Neighborhood to go through a Category 3 review prior to issuance of a building permit (as amended). The applicant has met with Portland NOW and has their support. Member Fishman questioned the number of employees and signage.

The following spoke in favor of this request:

Thomas J. Banaszynski, Attorney.

Summary of testimony of those in favor:

Thomas J. Banaszynski, the applicant's attorney, said the request will allow individual and group counseling Monday through Friday from 8:00 a.m. to 5:00 p.m. and will be managed by Maryhurst, Inc. He said there will be a maximum of 5 employees; and no attached signage. Mr. Banaszynski said they held a neighborhood meeting and all who attended were in support.

The following spoke neither for nor against the request:

No one.

Summary of testimony of those who spoke neither for nor against:

No one.

The following spoke in opposition to this request:

No one.

Summary of testimony of those in opposition:

No one.

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Deliberation:

Member Tharp said no one was opposed; and will be beneficial for the community.

An audio/visual recording of the Board of Zoning Adjustment hearing related to this case is available in the Planning & Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the April 6, 2015 public hearing proceedings.

Conditional Use Permit to allow a community service facility:

On a motion by Member Allendorf, seconded by Member Tharp, the following resolution was adopted:

WHEREAS, the Board finds from the file of this case, the staff report including the standard of review, the site plan; the PowerPoint presentations; the evidence, testimony and discussion at the public hearing that the applicant is requesting a Conditional Use Permit under Section 4.2.55 of the Land Development Code to allow a community service facility (outpatient behavioral counseling); and

WHEREAS, the Board finds that the proposal complies with all applicable policies of the Comprehensive Plan; and because no signage will be placed on the building and will remain residential in character; and

WHEREAS, the Board finds that the proposal is compatible with the surrounding uses and general character of the area, because the building is existing and will remain residential in character without significant modifications; and

WHEREAS, the Board finds that the necessary public facilities (both on and off-site) such as transportation, sanitation, water, sewer, emergency services etc. because the plan has been reviewed and preliminarily approved by Transportation Planning and MSD; and

WHEREAS, the Board finds that the proposal complies with the listed requirements because the maximum number of employees will be 5; and because no signage will be placed on the building; also because the building is existing with no modifications that would trigger landscaping requirements

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RESOLVED, that the Louisville Metro Board of Zoning Adjustment does hereby **APPROVE** the Conditional Use Permit to allow a community service facility (outpatient behavior counseling) on the site **SUBJECT** to the following Conditions of Approval:

1. The site shall be developed in strict compliance with the approved development plan (including all notes thereon). No further development shall occur on the site without prior review and approval by the Board.
2. The Conditional Use Permit shall be "exercised" as described in KRS 100.237 within two years of the Board's vote on this case. If the Conditional Use Permit is not so exercised, the site shall not be used for a community service facility (outpatient behavior counseling) without further review and approval by the Board.

YES: Members Proffitt, Allendorf, Tharp and Fishman.

NO: No one.

NOT PRESENT FOR THIS CASE AND NOT VOTING: Members Jarboe, Bergmann and Liggin.

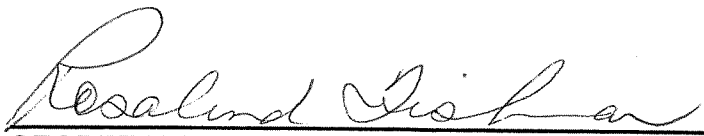
ABSTAINING: No one.

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The meeting adjourned at 10:53 a.m.


Vice-CHAIRPERSON


SECRETARY

